

# **EXHIBIT 508.2**

Page 243

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

MDL NO: 1968

IN RE: DIGITEK PRODUCT LIABILITY  
LITIGATION,

\_\_\_\_\_ /

100 N. Tampa Street  
Suite 2900  
Tampa, FL 33602  
February 18, 2011  
at 8:15 a.m.

VIDEOTAPE DEPOSITION OF DAVID BLIESNER, Ph.D.

Taken on behalf of the Defendants before  
PHILIP RYAN, RPR, Court Reporter, Notary Public in  
and for the State of Florida at Large, pursuant to  
Defendant's Notice of Taking Deposition in the  
above cause.

1 APPEARANCES:

2 MIKE KERENSKY, ESQUIRE  
Williamson & Rusnak  
3 4310 Yoakum Boulevard  
Houston, TX 77006-5818  
4 (713)223-3330  
(via telephone)

5  
Attorney for Plaintiffs

6  
MICHAEL ANDERTON, ESQUIRE  
7 Tucker, Ellis & West, LLP  
1150 Huntington Building  
8 925 Euclid Avenue  
Cleveland, OH 44115  
9 (216)592-5000

10 Attorney for Defendant Activis Totowa,  
LLC, Activis, Inc.,  
11 and Activis Elizabeth, LLC

12 SARAH E. DREWES, ESQUIRE  
Shook, Hardy & Bacon, LLP  
13 2555 Grand Boulevard  
Kansas City, Missouri 64108  
14 (816)474-6550

15 Attorney for Mylan Pharmaceuticals,  
Inc., Mylan Inc., Mylan Bertek  
16 Pharmaceuticals, Inc., and UDL Labs

17 ALSO PRESENT:  
Alan Pokotilow, videographer

18  
INDEX  
19 PAGE  
DIRECT EXAMINATION:  
20 BY MR. ANDERTON 5

21  
22  
23  
24  
25

Page 245

## EXHIBIT INDEX

MAR

1	Exhibit		
2	Exhibit 145	Invoices.	94
3	Exhibit 146	E-mail.	99
4	Exhibit 147	Binder.	117
5	Exhibit 148	Binder.	117
6	Exhibit 149	Binder.	117
7	Exhibit 150	Binder.	117
8	Exhibit 151	Notice.	122
9	Exhibit 152	Notes.	123
10	Exhibit 153	Notes.	123
11	Exhibit 154	Binder.	161
12	Exhibit 155	Binder.	337
13	Exhibit 156	Binder.	337

15

16

17

18

19

20

21

22

23

24

25



Page 246

1 THE VIDEOGRAPHER: We're on the 08:15  
2 record at 8:15 a.m. The date today is 08:15  
3 February 18th of 2011. This is the videotape 08:15  
4 deposition of Dr. David M. Bliesner in regard 08:15  
5 to the Digitek product liability litigation, 08:16  
6 civil action MDL 1968. 08:16

7 This videotape deposition is being held 08:16  
8 at 100 North Tampa, within suite 2900. The 08:16  
9 deposition was noticed by attorney Matt 08:16  
10 Moriarty, I believe. 08:16

11 MR. ANDERTON: Richard Dean, actually. 08:16

12 THE VIDEOGRAPHER: Okay. The 08:16  
13 videographer is Alan Pokotilow and the court 08:16  
14 reporter is Philip Ryan. At the time of 08:16  
15 transcript, the tape will be archived at 08:16  
16 Renillo Deposition and Discovery. 08:16

17 Counsel, please state your name and 08:16  
18 affiliation for the record, after which our 08:16  
19 court reporter will swear the witness and we 08:16  
20 can proceed. 08:16

21 MR. ANDERTON: Michael Anderton with 08:16  
22 Tucker Ellis & West on behalf of the Activis 08:16  
23 Defendants. 08:16

24 MS. DREWES: Sarah Drewes, with Shook, 08:16  
25 Hardy & Bacon on behalf of the Mylan 08:16

Page 247

1 Defendants. 08:16

2 MR. KERENSKY: Mike Kerensky for the 08:16

3 Plaintiff Mimi Vega. 08:16

4 MR. ANDERTON: And just so the record is 08:16

5 clear, Mr. Kerensky is participating by 08:17

6 telephone. 08:17

7 MR. KERENSKY: Correct. 08:17

8 The Deponent herein, 08:17

9 DAVID BLIESNER, Ph.D., 08:17

10 Being first duly sworn to tell the truth, the 08:17

11 whole truth, and nothing but the truth, was 08:17

12 examined and testified as follows: 08:17

13 DIRECT EXAMINATION 08:17

14 BY MR. ANDERTON: 08:17

15 Q. Good morning, Dr. Bliesner. 08:17

16 A. Good morning, sir. 08:17

17 Q. How are you? 08:17

18 A. Okay. 08:17

19 Q. Thanks for accommodating the early start 08:17

20 time. 08:17

21 A. Sure. 08:17

22 Q. I know it's an early day, but if we're 08:17

23 going to get everybody home to spend time with 08:17

24 their families this weekend, I thought 8 o'clock 08:17

25 was the best time to start. So thank you. 08:17

Page 248

1 A. You're welcome. 08:17

2 Q. Some ground rules. I know you -- we did 08:17

3 this about two or three weeks ago now, a little 08:17

4 more than three weeks ago so you're familiar with 08:17

5 the process, but I just want to repeat some ground 08:17

6 rules. And if you have any questions about them, 08:17

7 kind of let me know; okay? 08:17

8 A. Okay. 08:17

9 Q. As you know, I'm going to ask questions, 08:17

10 you're going to answer my questions. If you don't 08:17

11 understand a question, I would ask that you tell 08:17

12 me that and ask me to rephrase it or to state it 08:18

13 differently; is that fair? 08:18

14 A. That is fair. 08:18

15 Q. All right. And if I ask a question and 08:18

16 you answer it without asking me to rephrase or 08:18

17 restate it somehow, I will assume that you 08:18

18 understood it. 08:18

19 Is that all right? 08:18

20 A. Okay. 08:18

21 Q. You need to keep your voice up probably 08:18

22 just a little. I know you're mic'd and I know 08:18

23 from the last time that you're -- at times at 08:18

24 least are probably fairly soft-spoken. So just 08:18

25 try to make sure that your voice stays elevated so 08:18

Page 249

1 at least the mic hears it because as you know, the 08:18  
2 proceedings are being recording by video camera 08:18  
3 and audio as well; all right? 08:18

4 A. Okay. 08:18

5 Q. Now, Dr. Bliesner, one more kind of key 08:18  
6 point. You know, I attended the last session and 08:18  
7 I noticed as I did that, that there were what I 08:18  
8 felt were a fair amount of occasions where you 08:19  
9 didn't really respond to the questions that 08:19  
10 Mr. Moriarty had asked you. And it's obvious from 08:19  
11 your credentials and from your -- just -- just 08:19  
12 dealing with you in the last deposition that 08:19  
13 you're a very intelligent, very capable listener. 08:19  
14 We know that you've been told by Plaintiffs' 08:19  
15 counsel to listen very carefully. So I would ask 08:19  
16 that you really do me the favor of listening and 08:19  
17 making sure that when you answer a question, 08:19  
18 you're actually answering the question that I ask; 08:19  
19 okay? 08:19

20 A. Okay. 08:19

21 Q. I want to talk for a moment about your 08:19  
22 credentials. Do you have a copy of your CV with 08:19  
23 you? 08:19

24 A. Let me check. 08:19

25 Q. Please. And if you don't, I have an 08:19

Page 250

1 extra one. 08:19

2 A. I do not. 08:19

3 Q. Okay. Well, I'm going to hand you a 08:20

4 copy. 08:20

5 A. Okay. 08:20

6 Q. Mike, this is Exhibit 93. 08:20

7 Dr. Bliesner, I have handed you a document 08:20

8 that has been marked as Exhibit 93. Have you seen 08:20

9 that document before? 08:20

10 A. Yes. 08:20

11 Q. It's a copy of your CV, your resume; 08:20

12 correct? 08:20

13 A. It is. 08:20

14 Q. You prepared it? 08:20

15 A. I did. 08:20

16 Q. Is it accurate and current? 08:20

17 A. No. 08:21

18 Q. And last time you were asked -- I think 08:21

19 that you gave some testimony that there were a 08:21

20 couple of board memberships that had kind of 08:21

21 changed and there were some minor changes. But as 08:21

22 concerns your education and work experience, is 08:21

23 that CV accurate and current? 08:21

24 A. No. 08:21

25 Q. What is not accurate or current about 08:21

Page 251

1 your work experience or education as reflected on 08:21

2 that CV? 08:21

3 A. Yesterday I presented a guest lecture at 08:21

4 the University of South Florida College of 08:21

5 Medicine. 08:21

6 Q. What was the topic of that lecture? 08:21

7 A. The topic was something to the effect 08:21

8 "Consumer Health and GMPs." 08:21

9 Q. Tell me generally the substance of 08:21

10 the -- of the lecture, the subject of the lecture 08:21

11 that you gave yesterday at you said South Florida? 08:21

12 A. University South Florida. 08:21

13 Q. University of South Florida. 08:21

14 A. Yes. 08:21

15 Q. Can you give me a little more detail 08:21

16 than just the topic you just described? 08:21

17 A. Other than pulling up the course outline 08:22

18 and taking a look at it, in general it was an 08:22

19 overview of the drug development process and where 08:22

20 GMPs become pertinent in the drug development 08:22

21 process and an introduction to people who had not 08:22

22 been exposed to the concepts of the GMPs, and some 08:22

23 examples of enforcement and where they could go to 08:22

24 review the GMPs themselves. 08:22

25 Q. Drug development. Does that mean -- 08:22

Page 252

1 well, you tell me what that means. What do you 08:22  
2 mean by drug development? 08:22

3 A. Drug development is the process of 08:22  
4 discovering an entity that may have 08:22  
5 pharmacological activity and moving it to a final 08:22  
6 product. 08:22

7 Q. What would you characterize as the 08:22  
8 primary target audience for that lecture? 08:22

9 A. The students in the class were getting a 08:22  
10 masters in biotechnology. 08:22

11 Q. And when you talk about introduction to 08:23  
12 GMPs in the course or in the context of that 08:23  
13 lecture that you gave yesterday, tell me in more 08:23  
14 detail about the types of concepts that you 08:23  
15 presented with respect to the introduction to 08:23  
16 GMPs. 08:23

17 A. I would have to go back and pull up the 08:23  
18 course outline to talk explicitly about it. 08:23

19 Q. Well, you just did it yesterday, right, 08:23  
20 Dr. Bliesner? 08:23

21 A. Uh-huh. 08:23

22 Q. You're a very smart man; right? 08:23

23 MR. KERENSKY: Michael, that's not 08:23  
24 necessary. 08:23

25 MR. ANDERTON: Mike. 08:23

Page 253

1 MR. KERENSKY: I object to the form of 08:23  
2 the question. 08:23

3 MR. ANDERTON: You can object and I 08:23  
4 appreciate your objection and you make your 08:23  
5 record obviously, but I asked him what he 08:23  
6 talked about yesterday. Certainly he can 08:23  
7 remember that. 08:23

8 MR. KERENSKY: Well, you certainly need 08:23  
9 to be professional and not say things like 08:23  
10 "You're smart man; right?" That's what I'm 08:23  
11 scolding you about. 08:23

12 MR. ANDERTON: Your scolding is noted, 08:23  
13 Mike. 08:23

14 MR. KERENSKY: Thank you very much. 08:23

15 BY MR. ANDERTON: 08:23

16 Q. Dr. Bliesner, please tell me when you 08:23  
17 described a few moments ago that you gave an 08:24  
18 introduction to GMPs -- 08:24

19 A. Yes. 08:24

20 Q. -- as part of a presentation you made 08:24  
21 yesterday. 08:24

22 A. Yes. 08:24

23 Q. Please give me a description of the 08:24  
24 types of concept that you presented on with 08:24  
25 respect to introduction to GMPs? 08:24



1	A. I gave a brief overview of the drug	08:24
2	development process, I indicated at what point	08:24
3	GMPs become applicable, talked about the hierarchy	08:24
4	of the law in a very general sense and where the	08:24
5	GMPs come into play. I talked about the guidance	08:24
6	documents and compliance program guidance manuals	08:24
7	that are available online on the FDA website,	08:24
8	what's contained generally in those documents, the	08:25
9	quality systems that are associated with that, and	08:25
0	the hierarchy with respect to enforcement of	08:25
1	compliance of the GMPs. Much of the course was	08:25
2	left as attachments for the students to go and	08:25
3	look in detail if they sought to.	08:25

14 Q. When you used term -- just to be clear, 08:25  
15 when you used the term GMP as you did in the 08:25  
16 description and the ones you gave before, that is 08:25  
17 an acronym for good manufacturing practices; 08:25  
18 correct? 08:25

19           A.     It is.

08:25

20 Q. And that is a subject or a topic that 08:25  
21 emanates from the code of federal regulations 08:25  
22 under the United States code; correct? 08:25

A. The GMPs are part of the code of federal regulations.

25 Q. You said that you discussed -- that one 08:26

Page 255

1 of the things you discussed was at what point GMPs 08:26

2 become relevant to the drug development process. 08:26

3 A. (The witness nodded). 08:26

4 Q. What is that point in your mind? 08:26

5 A. In my opinion? 08:26

6 Q. Yes. 08:26

7 A. The point at which the GMPs become 08:26

8 applicable is when you start testing the product 08:26

9 or active in people. 08:26

10 Q. In people you said? 08:26

11 A. Yes. 08:26

12 Q. Does that mean when you are 08:26

13 participating in some sort of clinical trial? 08:26

14 A. Yes. 08:26

15 Q. So GMPs in your mind aren't applicable 08:26

16 if you're merely doing animal or other lab 08:26

17 studies; is that correct? 08:26

18 A. That is correct. 08:26

19 Q. And when you used the term "drug 08:26

20 development process," I assume that you're 08:26

21 talking -- and correct me if my assumption is 08:27

22 wrong -- I assume that you're talking about a drug 08:27

23 or an entity as you used that term that has not 08:27

24 yet been approved for market sale by the FDA. 08:27

25 A. Not necessarily. 08:27

Page 256

1 Q. Under what circumstances can a drug that 08:27  
2 hasn't been developed be approved by the FDA? 08:27

3 A. I don't know if I understand exactly the 08:27  
4 question you're asking. 08:27

5 Q. Well, you described -- you used the term 08:27  
6 "drug development process" and then you clarified 08:27  
7 and added substance to that term by indicating 08:27  
8 that it was the -- the process of taking an entity 08:27  
9 from concept to production and marketing; correct? 08:27

10 A. Correct. 08:28

11 Q. If your -- that process begins before 08:28  
12 FDA approval; correct? 08:28

13 A. Drug development process is very complex 08:28  
14 and it's not, does not fit to one specific case. 08:28  
15 For instance, if you have a generic drug you have 08:28  
16 to do drug development as well but it's already on 08:28  
17 a product that has been approved for market. So 08:28  
18 that could be considered drug development as well, 08:28  
19 as opposed to discovering a new entity and moving 08:28  
20 it forward. 08:28

21 Q. Well, even a generic drug -- 08:28

22 A. Uh-huh. 08:28

23 Q. -- isn't actually -- the brand name is 08:28  
24 approved for marketing; correct? 08:28

25 A. Correct. 08:28

Page 257

1 Q. Even the generic drug must go through a 08:28  
2 drug development process and must be submitted to 08:28  
3 the FDA before it can be marketed using an ANDA 08:28  
4 rather than an NDA; correct? 08:28

5 A. Correct. 08:28

6 Q. So this course that you or this 08:28  
7 presentation that you gave yesterday, how long did 08:29  
8 it last? 08:29

9 A. An hour and a half approximately. 08:29

10 Q. How long did you prepare for that 08:29  
11 presentation? 08:29

12 A. Several hours. 08:29

13 Q. What did you do to prepare for that 08:29  
14 presentation? 08:29

15 A. I took my course that I teach routinely 08:29  
16 at client sites, my book, and a course that I also 08:29  
17 teach at conferences routinely, looked at that 08:29  
18 core value that was there, based on input from the 08:29  
19 professor who invited me, trying to target what 08:30  
20 she thought might be useful for the students to be 08:30  
21 exposed in a general sense. 08:30

22 Q. And I -- I understand from your prior 08:30  
23 answer that you distributed some sort of materials 08:30  
24 at that presentation yesterday. 08:30

25 A. I did via Internet link. 08:30

Page 258

1 Q. Describe how that works. I haven't been 08:30  
2 in college in a long time, so what is the current 08:30  
3 practice with respect to distributing course 08:30  
4 materials or even a seminar like this? How do you 08:30  
5 distribute via Internet link? 08:30

6 A. To answer your first question, I don't 08:30  
7 know if there is a general way to do it. 08:30

8 Q. How did you do it? 08:30

9 A. How did I do it? I took the 08:30  
10 presentation -- as I told you -- from my basic 08:30  
11 course material, targeted it to the needs of the 08:30  
12 professor, put in a Power Point presentation, 08:30  
13 converted it to a PDF file so it's secure. I 08:30  
14 created a folder up on one of my websites that was 08:30  
15 blind, I uploaded it and provided a link to the 08:30  
16 professor and said that the students could access 08:31  
17 it if they'd like. 08:31

18 Q. Okay. And then did you -- I assume then 08:31  
19 that you repeated the web address for that link 08:31  
20 during the presentation? 08:31

21 A. No. 08:31

22 Q. Okay. So they got it from the professor 08:31  
23 and chose to go get it or not? 08:31

24 A. Correct. 08:31

25 Q. Other than -- well, did you bring any of 08:31

Page 259

1 the materials that you used in yesterday's 08:31  
2 presentation with you? 08:31

3 A. No. 08:31

4 Q. During the presentation during this 08:31  
5 hour, what -- how much of that was spent on 08:31  
6 manufacturing processes, if any? 08:31

7 A. Could you explain to me what you mean by 08:31  
8 "manufacturing processes"? 08:31

9 Q. Certainly. The drug development 08:31  
10 process -- well, let me back that up. Let me 08:32  
11 start over. 08:32

12 The drug production process involves several 08:32  
13 different components. Developing a drug and 08:32  
14 getting it ready to be manufactured and then 08:32  
15 actually going forward and physically producing 08:32  
16 the product I will characterize as two separate 08:32  
17 components of that process. 08:32

18 Did you discuss during your presentation 08:32  
19 yesterday, that second component, the acts 08:32  
20 associated with physically manufacturing and 08:32  
21 producing a drug product? 08:32

22 A. No because the students -- it was an 08:32  
23 open lecture and the students were allowed to 08:32  
24 drive it where they wanted to go and many of their 08:33  
25 questions were not related to manufacturing. 08:33

Page 260

1 Q. Were you planning to discuss that if 08:33  
2 they drove the discussion -- to use your term -- 08:33  
3 in that direction? 08:33

4 A. Brief overview, yes. 08:33

5 Q. Do you know the or can you tell us the 08:33  
6 link, the address for the link to the presentation 08:33  
7 materials for yesterday? 08:33

8 A. Actually, I can't off the top of my 08:33  
9 head. 08:33

10 Q. Can you tell us generally how one might 08:33  
11 get to that link? Is it available through Delphi, 08:33  
12 is it available from claycoachonline? 08:33

13 A. It's available through Delphi in a blind 08:33  
14 web link. 08:33

15 Q. What do you mean by blind web link? 08:33

16 A. The students and the instructor is the 08:33  
17 only ones that have it. 08:33

18 Q. So they need some sort of password or 08:33  
19 invitation? 08:33

20 A. Just the right link to get to the page. 08:33

21 Q. I mean it's not available to anybody who 08:33  
22 happens to go to the Delphi website? 08:33

23 A. No, sir. 08:33

24 Q. When we get a break sometime today, will 08:34  
25 you see what you can do about figuring out how to 08:34

Page 261

1 provide me and defense counsel with access to that 08:34

2 link, please? 08:34

3 A. Sure. 08:34

4 Q. Thank you. 08:34

5 A. Uh-huh. 08:34

6 Q. Now other than -- I'll let you make your 08:34

7 note. 08:34

8 Other than this presentation that you gave 08:34

9 yesterday, is the document that is in front of you 08:34

10 and that is marked as Exhibit 93 current with 08:34

11 respect to your education and experience? 08:34

12 A. No. 08:35

13 Q. What else is not on that version of your 08:35

14 CV that relates to your education and experience? 08:35

15 A. I am on a major consulting project right 08:35

16 now, and that's not on the list. 08:35

17 Q. Okay. What's that consulting project? 08:35

18 A. I'm not at liberty to share that with 08:35

19 you because I'm under a confidentiality agreement. 08:35

20 Q. Well, is it going to go on your CV at 08:35

21 some point? 08:35

22 A. Perhaps. 08:35

23 Q. What is the -- without revealing the 08:35

24 client, what is the nature generally of that 08:35

25 consulting project? 08:36



Page 262

1 A. The general nature of the consulting 08:36  
2 project is to support laboratory and manufacturing 08:36  
3 investigation review as a third-party independent. 08:36

4 Q. When did that start? 08:36

5 A. June last year. 08:36

6 Q. Of 2010? 08:36

7 A. Yes, sir. 08:36

8 Q. Does that mean that this CV hasn't been 08:36  
9 updated since June 2010 or perhaps before then? 08:36

10 A. I don't know. I'd have to go back and 08:36  
11 look and see when it was last updated. 08:36

12 Q. Other than the consulting project and 08:36  
13 the presentation you gave yesterday, what -- is 08:36  
14 there anything else that's not on this CV that 08:36  
15 relates to your experience or your education? 08:36

16 A. Without going through it line by line, I 08:36  
17 do not see my assistant -- excuse me associate 08:37  
18 professorship at St. Leo University. 08:37

19 Q. Is that a current position? 08:37

20 A. It is. 08:37

21 Q. When did it start? 08:37

22 A. Sometime I want to say approximately 08:37  
23 late spring, early summer of last year. 08:37

24 Q. That's St. Leo University? 08:37

25 A. Yes, sir. 08:38

Page 263

1 Q. And it's associate professor? 08:38

2 A. Yes. 08:38

3 Q. What general -- 08:38

4 A. Non-tenured track. 08:38

5 Q. Okay. Describe that generally. What do 08:38

6 you do, what are your responsibilities as an 08:38

7 associate, non-tenured professor at St. Leo 08:38

8 University? 08:38

9 A. I was one of the distance learning 08:38

10 instructors. 08:38

11 Q. What is distance learning? 08:38

12 A. Online education. 08:38

13 Q. So what is your role and what are your 08:38

14 responsibilities? What do you do? 08:38

15 A. I oversaw and taught via Internet 08:38

16 learning packages provided by the university, 08:38

17 introductory to science class. 08:38

18 Q. Any direct interaction with students in 08:38

19 that role? 08:38

20 A. How would you define "direct"? 08:38

21 Q. Well, did you deal with students 08:38

22 face-to-face or in a classroom setting? 08:38

23 A. No. 08:38

24 Q. Did you deal with them exclusively via 08:38

25 online contact? 08:38

Page 264

1 A. No. 08:38

2 Q. How did you interact with your students? 08:38

3 A. Online in the course, e-mail and 08:38

4 telephone. 08:39

5 Q. And telephone. 08:39

6 You used or you spoke in the past tense when 08:39

7 you described that position. Is it ongoing? 08:39

8 A. I am -- do have that position within the 08:39

9 organization. I'm not currently teaching a course 08:39

10 because of additional workload. 08:39

11 Q. Is it your expectation that you will 08:39

12 teach it again in the future? 08:39

13 A. Yes. 08:39

14 Q. Do you believe that the university 08:39

15 shares that expectation? 08:39

16 A. I couldn't say. 08:39

17 Q. Are you being paid by St. Leo University 08:39

18 for -- in any way at the moment? 08:39

19 A. At the current moment? 08:39

20 Q. Yes. 08:39

21 A. No. 08:39

22 Q. When did you stop receiving compensation 08:39

23 from St. Leo University? 08:39

24 A. When the semester ended. 08:39

25 Q. Last spring? 08:39

Page 265

1 A. Whenever it was. I'd have to go back 08:39

2 and look at that. 08:39

3 Q. Well, there's two semesters in an 08:39

4 academic year. 08:39

5 A. There are several actually, depends, 08:40

6 distant learning, stuff like that. I would have 08:40

7 to go back and look it up. 08:40

8 Q. Give me your best estimate on when that 08:40

9 semester commenced and ended. 08:40

10 A. I really can't tell you when it 08:40

11 started. When it ended it was I think somewhere 08:40

12 in June. 08:40

13 Q. Of 2010? 08:40

14 A. Yes. 08:40

15 Q. Okay. Now, as I look at your CV, I want 08:40

16 to go through that a little bit with you. I see 08:40

17 that your first work experience after you left the 08:40

18 University of Vermont, graduated from the 08:40

19 University of Vermont is with Zeneca; is that 08:40

20 right? 08:41

21 A. Yes. 08:41

22 Q. As an analytical research chemist? 08:41

23 A. That is correct. 08:41

24 Q. And according to your CV, in that role 08:41

25 you developed and validated analytical methods; 08:41

Page 266

1 right? 08:41

2 A. That is correct. 08:41

3 Q. Analytical methods describe -- am I 08:41

4 correct that that generally means the method by 08:41

5 which laboratory testing is conducted on some 08:41

6 material that is part of the pharmaceutical -- 08:41

7 part of a pharmaceutical manufacturing process? 08:41

8 A. Can you restate that, please? 08:41

9 Q. Sure. When you use the term "analytical 08:41

10 method," am I correct in my understanding that 08:41

11 that means or is used generally to describe the 08:41

12 method by which laboratory testing is conducted on 08:41

13 something, some entity that is part of a 08:41

14 pharmaceutical manufacturing process -- whether 08:42

15 it's finished product or in-process material or 08:42

16 raw material or -- 08:42

17 A. Packaging material. 08:42

18 Q. Okay. So analytical method is 08:42

19 developing a testing method; correct? 08:42

20 A. I'd say that's accurate. 08:42

21 Q. So your role with Zeneca was entirely in 08:42

22 the laboratory; correct? 08:42

23 A. When you say "entirely in the 08:42

24 laboratory," could you define that, please? 08:42

25 Q. Well did you do any -- you didn't do 08:42

Page 267

1 anything it looks like other than perform job 08:42

2 functions related to and around developing, 08:42

3 validating analytical methods; is that accurate? 08:42

4 A. I don't think that's an accurate 08:42

5 statement, no. 08:42

6 Q. Well what else did you do other than 08:42

7 work with developing and validating analytical 08:42

8 methods as your CV says? 08:42

9 A. As it says here, worked closely with 08:43

10 formulation specialists, designed testing 08:43

11 protocols and methods for new dosage forms. 08:43

12 Q. Okay. And that is a -- does that have 08:43

13 anything to do with product manufacturing, the 08:43

14 actual physical manufacturing process? 08:43

15 A. It does. 08:43

16 Q. How? 08:43

17 A. There is actually quite of bit of 08:43

18 extensive formulation development and interaction 08:43

19 with the formulators in the initial dosage form 08:43

20 manufacturing. 08:43

21 Q. Well, what does that have -- 08:43

22 A. Report it back. 08:43

23 Q. What does that have to do with tablet or 08:43

24 product manufacturing? 08:43

25 A. This lays all the basis because this is 08:43

Page 268

1 the initial work that's done to get to the final 08:43  
2 validated process in product. 08:43

3 Q. Well, but you're not -- I mean 08:43  
4 Dr. Bliesner your resume says "developing 08:43  
5 analytical methods," not validating manufacturing 08:43  
6 processes. 08:43

7 A. As part of that process you are 08:43  
8 interacting very closely with the formulators and 08:43  
9 the manufacturing folks to test their products and 08:44  
10 be involved in those cross-functional meetings to 08:44  
11 make sure that they're hitting what they're 08:44  
12 supposed to be hitting and when they have problems 08:44  
13 that, you know -- when they're developing 08:44  
14 processes, that you are there to provide 08:44  
15 additional input and feedback with respect to how 08:44  
16 your analyses are reflecting on what they're 08:44  
17 doing. 08:44

18 Q. What type of products did Zeneca make 08:44  
19 while you were in that job? Solid oral dose, 08:44  
20 liquids, gels? 08:44

21 A. As a company at large? 08:44

22 Q. Yeah. 08:44

23 A. Specifically I couldn't -- I'd have to 08:44  
24 go back and look, but it covered the broad lanes 08:44  
25 of product types and formulations. 08:44

Page 269

1 Q. And do you believe it included solid 08:44  
2 oral dose? 08:44

3 A. That, it did. 08:44

4 Q. Okay. So they were -- were you involved 08:44  
5 in developing and validating analytical methods 08:44  
6 for tablets? 08:44

7 A. Yes, sir. 08:44

8 Q. For Digoxin tablets? 08:44

9 A. No, sir. 08:44

10 Q. Have you ever been involved with any 08:45  
11 sort of method development or validation with 08:45  
12 respect to Digoxin in any form? 08:45

13 A. No, sir. 08:45

14 Q. Your next job with UDL, you described it 08:45  
15 as a principal chemist. And again you indicate -- 08:45  
16 hold on one moment. My apologies, Dr. Bliesner, 08:45  
17 for the interruption. 08:45

18 A. It's okay. 08:45

19 Q. You indicate that you are responsible 08:45  
20 for developing and validating analytical methods. 08:45  
21 Tell me what that means. 08:45

22 A. As we just talked about being part of a 08:45  
23 cross-functional team that supports product 08:45  
24 development to determine the best analytical 08:46  
25 technique to support the required testing and -- 08:46



Page 270

1 Q. Well -- I'm sorry. Go ahead. 08:46

2 A. And once the method is developed to a 08:46

3 point where it appears to be validatable, a 08:46

4 validation program protocol is developed and then 08:46

5 validated to prove in fact the method works for 08:46

6 its intended use. 08:46

7 Q. And according to resume, your primary 08:46

8 emphasis was on HPLC method development; is that 08:46

9 right? 08:46

10 A. That's correct. 08:46

11 Q. And HPLC stands for high performance 08:46

12 liquid chromatography; am I correct about that? 08:46

13 A. Yes, and it also stands for high 08:46

14 pressure liquid chromatography. It's a term that 08:46

15 is cross-confused sometimes. It's now becoming 08:46

16 more popular again. 08:46

17 Q. On your resume -- 08:46

18 A. Yes. 08:46

19 Q. -- what does it mean? 08:46

20 A. High performance liquid chromatography. 08:47

21 Q. And that's a method by which a chemical 08:47

22 analysis is performed on some entity; correct? 08:47

23 A. How would you define "chemical 08:47

24 analysis"? 08:47

25 Q. Well, let me -- 08:47

Page 271

1 A. Uh-huh. 08:47

2 Q. -- ask you, Dr. Bliesner. What is high 08:47

3 performance liquid chromatography? 08:47

4 A. It's a separation technique. 08:47

5 Q. Separation of what? 08:47

6 A. Components and mixtures. 08:47

7 Q. So it is a technique to analyze 08:47

8 components and mixtures of various drug entities; 08:47

9 correct? 08:47

10 A. Drug products and also to look for 08:47

11 impurities if you will in actives and drug 08:47

12 products. 08:47

13 Q. All right. So it's a lab-based 08:47

14 function, am I correct? 08:47

15 A. That's correct. 08:47

16 Q. Your next -- the next work experience on 08:47

17 your resume is again for UDL and you're listed as 08:48

18 analytical group leader. Do you see that on page 08:48

19 3? 08:48

20 A. I do. 08:48

21 Q. And in that role, you indicate you are 08:48

22 responsible for supervising research chemists. 08:48

23 A. Yes. 08:48

24 Q. Do you see that? 08:48

25 Tell me what you did there. 08:48

Page 272

1 A. I was responsible for the people who 08:48  
2 were doing method development and validation and 08:48  
3 testing. 08:48

4 Q. Again, a lab-based function? 08:48

5 A. Yes, and we also interacted with product 08:48  
6 development teams and manufacturing. 08:48

7 Q. Okay. But your primary responsibilities 08:48  
8 were in the lab overseeing research chemists who 08:48  
9 were doing the -- performing the tasks you just 08:48  
10 described; correct? 08:48

11 A. The primary function, yes. 08:48

12 Q. The next position you have listed here 08:48  
13 is analytical laboratory manager. 08:49

14 A. Yes. 08:49

15 Q. You indicate in that role you supervised 08:49  
16 day-to-day operation of lab -- analytical lab 08:49  
17 personnel in various tasks that you list there. 08:49

18 Do you see that? 08:49

19 A. Including methods validation, routine 08:49  
20 analysis, equipment qualification and calibration, 08:49  
21 stability and experimental protocol, yes. 08:49

22 Q. Right. And again that's a lab-based 08:49  
23 position. 08:49

24 A. It is. 08:49

25 Q. And was while you occupied it. 08:49

Page 273

1 A. Yes. 08:49

2 Q. The next one, Somerset Pharmaceuticals, 08:49

3 director of analytical research and 08:49

4 development/quality control. You characterize it 08:49

5 as a senior analytical laboratory supervisor. 08:49

6 Is that also a lab-based position? 08:49

7 A. It is, in addition to interacting 08:49

8 extensively with product development people who -- 08:50

9 some of whom reported to me, clinical trial 08:50

10 material manufacturing, dosage formula 08:50

11 manufacturing, some of who reported to me. 08:50

12 Various different -- it was a small company and 08:50

13 everybody wore a lot of hats. In this particular 08:50

14 case we did the whole development bailiwick. 08:50

15 Q. Okay. But your position was so you 08:50

16 interacted with the product development people. 08:50

17 A. Some of who reported to me too. 08:50

18 Q. Okay. Those are also lab-based 08:50

19 positions; correct? 08:50

20 A. Not all of them, no. 08:50

21 Q. What people -- well, did you have any QA 08:50

22 responsibilities? 08:50

23 A. No. QA was a separate function outside 08:50

24 the lab. 08:50

25 Q. And I guess I should go back. Let's go 08:50

Page 274

1 back to Zeneca. 08:50

2 A. Okay. 08:50

3 Q. As an analytical research chemist, any 08:50

4 QA responsibilities? 08:51

5 A. No, QA is a separate function. 08:51

6 Q. Okay. 08:51

7 A. Distinct and clear separate function or 08:51

8 should be. 08:51

9 Q. And I understand that. 08:51

10 A. Uh-huh. 08:51

11 Q. But I need to -- I hope you understand, 08:51

12 Dr. Bliesner, I need to establish certain things 08:51

13 for the record. 08:51

14 A. Absolutely. 08:51

15 Q. So with Zeneca -- because as you said QA 08:51

16 is a separate and distinct function from the lab 08:51

17 operations -- 08:51

18 A. Uh-huh. 08:51

19 Q. -- which are typically referred to as 08:51

20 quality control; correct? 08:51

21 A. No. 08:51

22 Q. Well -- 08:51

23 A. Quality control and quality assurance 08:51

24 are two different functions. 08:51

25 Q. That's what I meant. 08:51

Page 275

1 A. Yes. 08:51

2 Q. Maybe I didn't say that very clearly. 08:51

3 A. Uh-huh. 08:51

4 Q. Lab functions are typically within the 08:51

5 industry referred to as quality control; is that 08:51

6 correct? 08:51

7 A. That's a fair statement. 08:51

8 Q. Okay. And quality assurance -- or QA as 08:51

9 I've been using that term and as I believe you 08:51

10 understood when I used that term -- 08:51

11 A. Uh-huh. 08:51

12 Q. -- is as you described a separate and 08:51

13 distinct function totally separate from lab 08:51

14 testing and quality control; correct? 08:51

15 A. As an oversight function. Quality 08:52

16 assurance itself is integrated into everything, 08:52

17 including the lab functions you know, review the 08:52

18 data, integrity of data, method development 08:52

19 validation. As far as the title as an oversight, 08:52

20 as a final signoff and a separate pair of eyes 08:52

21 with a different reporting structure, that is the 08:52

22 QA function. 08:52

23 Q. Okay. At Zeneca -- 08:52

24 A. Uh-huh. 08:52

25 Q. -- you had no QA responsibilities; 08:52

Page 276

1 correct? 08:52

2 A. No, but GMP responsibilities that are 08:52

3 oversight by QA. 08:52

4 Q. Dr. Bliesner. 08:52

5 A. Yes. 08:52

6 Q. This is what I'm talking about. I asked 08:52

7 you very succinctly whether you had QA 08:52

8 responsibilities. If you would answer that 08:52

9 question and only that question, I would 08:52

10 appreciate it; okay? 08:52

11 Did you have QA responsibilities? 08:52

12 A. As we define QA -- you and I understand 08:52

13 -- quality assurance, separate function, 08:52

14 oversight, no. 08:52

15 Q. Same question with respect to the next 08:52

16 position you have listed, UDL Laboratories and 08:52

17 principal chemist. Did you have any QA 08:52

18 responsibilities? 08:52

19 A. As we've defined it, no. 08:53

20 Q. Same question with respect to the next 08:53

21 UDL position you have as analytical group leader 08:53

22 on your CV. As we've defined QA responsibilities, 08:53

23 did you have any of those QA responsibilities in 08:53

24 that position? 08:53

25 A. No. 08:53

Page 277

1 Q. As an analytical laboratory manager for 08:53  
2 Somerset Pharmaceuticals, did you have any QA 08:53  
3 responsibilities? 08:53

4 A. In the formal sense, as QA as we've 08:53  
5 defined it, no. 08:53

6 Q. As the director of analytical research 08:53  
7 and development/quality control for Somerset 08:53  
8 Pharmaceuticals, any QA responsibilities? 08:53

9 A. No. 08:53

10 Q. Moving to the next entry in your CV, 08:53  
11 HPLC, product marketing manager for Restek 08:54  
12 Corporation apparently at Penn State University. 08:54  
13 Tell me about that position. 08:54

14 A. It was not at Penn State. It's a state 08:54  
15 college. 08:54

16 Q. Is that different? 08:54

17 A. Yes. 08:54

18 Q. Is that not Penn State? 08:54

19 A. Yes. 08:54

20 Q. My apologies. 08:54

21 Tell me about that position. What did you do? 08:54

22 A. Initially, I stepped into a business 08:54  
23 role, business development role, to assist them in 08:54  
24 finding ways to increase their sales of HPLC 08:54  
25 products. 08:54



Page 278

1 Q. Okay. And do I understand then that 08:54

2 when you took this position with Restek, you 08:54

3 stepped outside the laboratory and the technical 08:54

4 aspect of the pharmaceutical business and 08:55

5 transitioned to a more business and marketing 08:55

6 role? 08:55

7 A. I don't think that's an accurate 08:55

8 assessment. 08:55

9 Q. Well, why is it not accurate? 08:55

10 A. Because the technical aspects all came 08:55

11 with it in addition to business still. 08:55

12 Q. I understand. But your title is product 08:55

13 marketing manager. And as you described your 08:55

14 responsibilities, you were hired to and did assist 08:55

15 them with trying to increase sales of HPLC 08:55

16 columns; right? 08:55

17 A. I did for a brief period of time. 08:55

18 Q. And your -- what do you mean by a brief 08:55

19 period of time? Does that mean you were only 08:55

20 there for five months, is that what you mean? 08:55

21 A. I only served in that position for five 08:55

22 months. 08:55

23 Q. And then you transitioned to director of 08:55

24 Restek analytical services? 08:55

25 A. I created the position and the title. 08:55

Page 279

1 Q. Okay. And backing up to your product 08:55

2 marketing manager position. 08:56

3 A. Uh-huh. 08:56

4 Q. Did you have any QA responsibilities in 08:56

5 that role? 08:56

6 A. Yes. 08:56

7 Q. Really? 08:56

8 A. For HPLC column manufacturing. 08:56

9 Q. You had actual oversight responsibility 08:56

10 for checking the compliance of product 08:56

11 manufacturing with specifications? 08:56

12 A. For HPLC columns. 08:56

13 Q. What do you mean by that? Tell me what 08:56

14 distinction you're making. 08:56

15 A. HPLC column is a major component of high 08:56

16 performance liquid chromatography. 08:56

17 Q. I understand. 08:56

18 A. We manufactured HPLC columns at Restek. 08:56

19 Q. Did Restek manufacture any drug 08:56

20 products? 08:56

21 A. No. 08:56

22 Q. So as director of analytical services, 08:56

23 that position has -- again is not associated with 08:56

24 manufacturing drug products, am I correct? 08:57

25 A. We did not manufacture products on site. 08:57

Page 280

1 Q. Did you have any role or responsibility 08:57  
2 for manufacturing -- for any aspect of 08:57  
3 manufacturing any drug product when you were 08:57  
4 employed by Restek? 08:57

5 A. I can't say for sure because we 08:57  
6 consulted to the industry as well and we may have 08:57  
7 performed some consultation with respect to drug 08:57  
8 product manufacturers. 08:57

9 Q. Dr. Bliesner, I asked what your 08:57  
10 experience was, not the company as a whole. 08:57

11 A. No, no. I would have been the one that 08:57  
12 would have been providing that consulting to the 08:57  
13 manufacturing of drug product. I don't recall 08:57  
14 whether we did or not, but we did provide 08:58  
15 consultation in addition to the lab services as 08:58  
16 well. So I can't say definitively that I did or 08:58  
17 did not have input into the drug manufacturing 08:58  
18 process. 08:58

19 Q. What consultation did you yourself 08:58  
20 provide while you were employed by Restek to -- to 08:58  
21 drug product manufacturers? 08:58

22 A. We were in constant contact with them 08:58  
23 because they were our customers for the columns 08:58  
24 and the lab services. So we provided consultation 08:58  
25 on many aspects of the drug development process, 08:58

Page 281

1 production, manufacturing. 08:58

2 Q. Are you telling me that you were 08:58

3 involved with developing drug products for other 08:58

4 companies while you were employed by Restek? 08:58

5 A. They were our clients. We consulted 08:58

6 with them if they needed things. 08:58

7 Q. You consulted with them with respect to 08:58

8 various functionality issues of your HPLC columns; 08:58

9 correct? 08:58

10 A. No, not necessarily. We did contract 08:58

11 work, analytical work and product development work 08:58

12 for them as part of the mission. 08:58

13 Q. Well, as part of the mission, as I read 08:58

14 your CV, Dr. Bliesner, that you prepared, it lists 08:59

15 only business functions. It doesn't say anything 08:59

16 about being involved in drug development 08:59

17 processes, does it? 08:59

18 A. If you look at the director of Restek 08:59

19 Analytical Services, it offers analytical method 08:59

20 development, validation, HPLC, GC, education, 08:59

21 training, customer stationary phase design, CGMP 08:59

22 regulatory services and support. That's where 08:59

23 that would fall into. 08:59

24 Q. And your testimony is that you performed 08:59

25 those functions while you were at Restek? 08:59

Page 282

1 A. Some of them, yes. 08:59

2 Q. What do you mean by some of them? 08:59

3 A. I interacted primarily with the client 08:59

4 as the first line. 08:59

5 Q. You mean you were the first line -- you 09:00

6 were Restek's front line person interacting with 09:00

7 the client. Is that what you mean by that? 09:00

8 A. Yes, sir. For this division, Restek 09:00

9 Analytical Services. 09:00

10 Q. Well, your job duties and 09:00

11 responsibilities as you described them included 09:00

12 market research, drafting a business plan, and 09:00

13 obtaining funding and approval from Restek. 09:00

14 You go on to describe what Restek does, but 09:00

15 you don't say anything about your -- about you 09:00

16 being involved in any of the analytical method 09:00

17 development consultation, do you? 09:00

18 A. If I was to list this here, the document 09:00

19 would be about 25 pages long for all the different 09:00

20 jobs that I've had. 09:00

21 Q. Dr. Bliesner, I'm merely pointing out 09:00

22 that you described your job duties and 09:00

23 responsibilities strictly in a business capacity; 09:00

24 is that right? 09:00

25 A. No, that's not correct. 09:00

Page 283

1 Q. Your statement on here says that you 09:01  
2 were responsible for conception, design, building, 09:01  
3 staffing, and qualification of Restek Analytical 09:01  
4 Services. 09:01

5 A. That is correct. 09:01

6 Q. And you go on to say that included 09:01  
7 conducting market research, drafting a business 09:01  
8 plan, and obtaining funding. 09:01

9 A. That is correct. 09:01

10 Q. You don't say anything about interacting 09:01  
11 with clients on assisting with development of 09:01  
12 analytical methods. 09:01

13 A. As I said, if I put everything down I 09:01  
14 did here, the document would be 25 pages long. 09:01  
15 This is a summary resume to send out to people. 09:01

16 Could I interrupt for a second, please? 09:01

17 Q. Would you like to take a break? 09:01

18 A. Yes, please. 09:01

19 MR. ANDERTON: Absolutely. 09:01

20 THE VIDEOGRAPHER: The time is 9:01 a.m. 09:01

21 We're going off the record briefly. 09:01

22 (Short break) 09:12

23 THE VIDEOGRAPHER: The time is 9:12 a.m. 09:12

24 We're back on the record. This is the 09:13

25 beginning of tape two. 09:13

Page 284

1 BY MR. ANDERTON: 09:13

2 Q. Dr. Bliesner, -- hey Mike. Mike? 09:13

3 MR. KERENSKY: Yes. 09:13

4 MR. ANDERTON: If you're going to be 09:13

5 typing -- 09:13

6 MR. KERENSKY: All right. I'll put it 09:13

7 back on mute. Happens all the time. I'm 09:13

8 sorry. 09:13

9 MR. ANDERTON: That's all right. 09:13

10 BY MR. ANDERTON: 09:13

11 Q. All right. Dr. Bliesner, we were 09:13

12 discussing various things on your resume and we 09:13

13 left off -- or your CV. We left off with director 09:13

14 of analytical services for Restek. 09:13

15 A. Restek, yes. 09:13

16 Q. Restek. Sorry. And the State College 09:13

17 of Pennsylvania. The next -- well, let me let me 09:13

18 ask one final question about that position. 09:13

19 The consultation that you described being 09:14

20 involved with in that position was primarily 09:14

21 consultation -- well, was exclusively consultation 09:14

22 related to lab-based activities; correct? 09:14

23 A. No, I don't think you'd say that 09:14

24 exclusively. We went into a lot of different 09:14

25 client sites, interacted with groups of folks at 09:14

Page 285

1 the client sites which included, you know, product 09:14  
2 development, manufacturing types, lab types, 09:14  
3 usually looking for a source of additional 09:14  
4 information in addition to solving problems. 09:14

5 Q. Primarily lab-based activities that you 09:14  
6 were giving consultation on? 09:14

7 A. I wouldn't say primarily. 09:14

8 Q. Well, you sold -- 09:14

9 A. It was very broad-based in our approach 09:14  
10 in how we were trying to line up customers. 09:14

11 Q. Well, you sold HPLC columns; right? 09:14

12 A. And services. 09:15

13 Q. And what type of services? What do you 09:15  
14 mean by services? 09:15

15 A. That's what Restek Analytical Services 09:15  
16 was all about. It wasn't just about selling HPLC 09:15  
17 columns. It was about selling contract analytical 09:15  
18 services and providing consulting services -- GMP 09:15  
19 training, those types of things -- to the industry 09:15  
20 so they could partner with us and be interested in 09:15  
21 buying the columns and we would validate the 09:15  
22 methods. 09:15

23 Q. Analytical services again relates to lab 09:15  
24 functions; right? 09:15

25 A. It wasn't necessarily all analytical 09:15



Page 286

1 services because there was formulation development 09:15

2 discussions that went on in there as well. 09:15

3 Q. When you left Restek and went to work -- 09:15

4 the next position listed on your CV is 09:15

5 vice-president of operations for Laboratory 09:15

6 Management Systems in New Castle, Delaware. 09:15

7 A. That's correct. 09:15

8 Q. According to your CV, you created and 09:16

9 drove sales and marketing plans; is that right? 09:16

10 A. As one part of my responsibilities, yes. 09:16

11 Q. What else did you do? 09:16

12 A. Primary responsibility took up the 09:16

13 lion's share of the time as I was an active 09:16

14 consultant with the Wyeth and Schering Plough 09:16

15 consent decrees. 09:16

16 Q. Doing what? 09:16

17 A. Being part of the FDA-mandated 09:16

18 third-party expert contingent consult, where we 09:16

19 went in and did very detailed, thorough 09:16

20 assessments, documented the findings, developed 09:16

21 corrective actions and went back in and did 09:16

22 verification and then backed the actions that had 09:16

23 been put into place that were stable -- were 09:16

24 verifiable and sustainable from a quality systems 09:16

25 standpoint. 09:16

Page 287

1 Q. Wyeth and who else? 09:16

2 A. Schering Plough. 09:16

3 Q. Schering Plough. Both were under 09:16

4 consent decrees? 09:16

5 A. They were. 09:17

6 Q. Did you visit both of those companies 09:17

7 while you were employed by Laboratory Management 09:17

8 Systems? 09:17

9 A. When you say "visit," they're very large 09:17

10 organizations that have many different sites. 09:17

11 Q. Did you visit any of them? 09:17

12 A. Yes, sir. 09:17

13 Q. For both companies? 09:17

14 A. Yes, sir. 09:17

15 Q. And -- 09:17

16 A. The visit actually was on site 09:17

17 extensively for some of them. 09:17

18 Q. And so you were part of what I'll 09:17

19 characterize as the remediation activities for 09:17

20 both of those companies? 09:17

21 A. I wouldn't characterize it as such. 09:17

22 Q. What's wrong with my term remediation 09:17

23 activities? 09:17

24 A. Remediation assumes that you've already 09:17

25 found everything that was wrong. 09:17

Page 288

1 Q. Okay. But there were certainly 09:17  
2 remediation activities. 09:17

3 A. That followed, yes. 09:17

4 Q. Well, if you're under a consent decree, 09:17  
5 there are certain things that have already been 09:17  
6 identified; right? 09:17

7 A. The FDA would have found and documented 09:17  
8 through 483s, warning letters, and presented an 09:17  
9 EIR, continuing deficiencies, yes. 09:18

10 Q. And tell me about the process that 09:18  
11 you -- and let's ask first about Wyeth. 09:18

12 A. Uh-huh. 09:18

13 Q. Tell me about the process that you 09:18  
14 followed as you provided consulting services to 09:18  
15 them to help them address the issues that were 09:18  
16 raised by the consent decree and the underlying 09:18  
17 regulatory activities that resulted in that 09:18  
18 consent decree. 09:18

19 A. Okay. 09:18

20 Q. What process did you follow? 09:18

21 A. As a global? 09:18

22 Q. Yeah, generally. 09:18

23 A. Generally. 09:18

24 Q. And then I'll ask more specific 09:18  
25 questions based on your response. 09:18

Page 289

1 A. First of all, each consent decree as I'm 09:18  
2 sure you know is an individually negotiated plan. 09:18

3 Q. Understood. 09:18

4 A. In the Wyeth consent decree, we first 09:18  
5 came in and did very detailed assessments of the 09:18  
6 major quality system elements. 09:18

7 Q. Which involved what? 09:18

8 A. Going into individual departments -- 09:19  
9 laboratories, manufacturing areas, packaging 09:19  
10 areas -- usually in teams of two people and asking 09:19  
11 questions, performing interviews, looking at data, 09:19  
12 looking at protocols, the whole plethora of 09:19  
13 activities for each one of the quality system 09:19  
14 elements. Document them. 09:19

15 Q. Looking at data and looking at 09:19  
16 protocols, two things that you identified in that 09:19  
17 response. What do each of those mean? Looking at 09:19  
18 what type of data, looking at what type of 09:19  
19 protocols? 09:19

20 A. It really depended because it was a huge 09:19  
21 organization and addressed many different 09:19  
22 components. So you would be assigned a department 09:19  
23 for instance that you could go in on for a 09:19  
24 particular week and you would determine their work 09:19  
25 flow, how they conducted business, how they 09:19

Page 290

1 documented things, how data was collected, and you 09:19  
2 would go soup to nuts, systematic approach, 09:19  
3 looking through to see if they, in fact, had 09:19  
4 quality systems or any systems in place, whether 09:20  
5 they had procedures in place, whether people were 09:20  
6 trained and just in a laboratory notebook document 09:20  
7 all these findings and go back and write them up 09:20  
8 as findings from the assessment, very similar to 09:20  
9 what the FDA would do on a 483. A very extensive, 09:20  
10 heavy-duty process. 09:20

11 That was only the first part. 09:20

12 Q. What was the second part? 09:20

13 A. The second part was a compilation of all 09:20  
14 of the findings into a report. 09:20

15 Q. The findings meaning your analysis of 09:20  
16 the data as you described it and protocols that 09:20  
17 you reviewed and all the other information that 09:20  
18 you reviewed. 09:20

19 A. Systems in general; okay? Quality 09:20  
20 system, laboratory control system, product system, 09:20  
21 packaging, labeling, all of those different 09:20  
22 things. You know, it was a detailed assessment 09:20  
23 and that would include reviewing training records 09:20  
24 for instance for the individuals that are there, 09:20  
25 looking at, you know, production records. 09:20

Page 291

1 Everything you would imagine that constitutes a 09:21  
2 modern pharmaceutical manufacturing system -- down 09:21  
3 to excruciating details. 09:21

4 Q. That was all part of your consulting? 09:21

5 A. Yes. We had a 150 people team initially 09:21  
6 on the one site with Wyeth. 09:21

7 Q. How long did that process take? 09:21

8 A. The initial assessment? 09:21

9 Q. Yes. 09:21

10 A. The initial site where we started -- 09:21  
11 it's been a long time. The assessment ran 09:21  
12 somewhere in the neighborhood of approximately 09:21  
13 three months. 09:21

14 Q. With 150 people on site for three 09:21  
15 months? 09:21

16 A. Absolutely. 09:21

17 Q. 150 laboratory management systems 09:21  
18 employees on Wyeth's site for three months? 09:21

19 A. We were subcontractors as part of a 09:21  
20 team. 09:22

21 Q. Okay. As you performed that 09:22  
22 assessment. 09:22

23 A. Uh-huh. 09:22

24 Q. That's a correct term? 09:22

25 A. Yes. 09:22

Page 292

1 Q. Is that the same thing as an audit? 09:22

2 A. I don't think I would define it like 09:22

3 that, but... 09:22

4 Q. Well -- 09:22

5 A. It's the same process, yeah. 09:22

6 Q. Okay. So if I describe the process that 09:22

7 you just described. 09:22

8 A. Uh-huh. 09:22

9 Q. 150 people on site for three months, 09:22

10 soup to nuts, virtually everything you can think 09:22

11 of with respect to a manufacturing and production 09:22

12 process. 09:22

13 A. Uh-huh. 09:22

14 Q. That's an accurate description of what 09:22

15 you guys -- the activity you undertook. 09:22

16 A. Everything. All of the components of 09:22

17 the quality systems that constituted that. 09:22

18 Q. So if I described that process as an 09:22

19 audit, would that be an accurate or a fair 09:22

20 characterization? 09:22

21 A. Perhaps. There's confusion in the 09:23

22 industry in general about what's an assessment, 09:23

23 what's a self-assessment, what's an audit, what's 09:23

24 an inspection, so... 09:23

25 Q. I understand. 09:23

Page 293

1 A. Yes. 09:23

2 Q. I'm asking you. 09:23

3 A. To me, personally? 09:23

4 Q. Yes. 09:23

5 A. An audit is a like the agency coming in 09:23

6 and doing something from the outside. It's not 09:23

7 necessarily open and collaborative. This 09:23

8 assessment was full disclosure from all employees 09:23

9 and everything. You know, sit down, tell us 09:23

10 what's wrong, tell us everything that's there, you 09:23

11 know, everybody volunteering information. I 09:23

12 consider that to be different than an audit. 09:23

13 Q. Well, when you -- so you then used the 09:23

14 term audit and believe it is best used only to 09:23

15 apply to a -- a -- I guess I'll characterize that 09:23

16 as third-party or just the FDA? I mean I'm not 09:24

17 sure I understand the distinction. 09:24

18 A. And to be perfectly honest with you, 09:24

19 there's confusion in the industry too. So I don't 09:24

20 know if your statement is the best description of 09:24

21 it. 09:24

22 Q. Well, then I mean what is -- what is the 09:24

23 difference between an audit and the assessment 09:24

24 that you just described? 09:24

25 A. An audit, in my experience, they usually 09:24



Page 294

1 come in the form of a corporate entity, quality 09:24  
2 assurance coming down to a specific site and 09:24  
3 performing a compliance assessment that's an audit 09:24  
4 to try to determine stuff. 09:24

5 When corporate comes down to a site, it isn't 09:24  
6 necessarily a free and open sharing of things with 09:24  
7 individuals because it's corporate. So that is 09:24  
8 how audits work per se. 09:24

9 An assessment is when -- I've actually just 09:24  
10 recently finished a very extensive one where we 09:24  
11 would sit down and it's full, open, and honest 09:24  
12 disclosure, everybody is laying things out because 09:24  
13 you really want to get to the root cause during an 09:24  
14 assessment, self-assessment, to find out what's 09:25  
15 broken and what potential corrective actions may 09:25  
16 be and how to implement corrective and preventive 09:25  
17 actions and verify the actions, collecting these 09:25  
18 data, all the things we've described. 09:25

19 Q. So then as you understand and use, as 09:25  
20 you used the term audit, does that mean you don't 09:25  
21 think it's -- that there's as much disclosure and 09:25  
22 openness when an audit is being conducted? 09:25

23 A. I would say that's a fair assessment, 09:25  
24 yes. Because people volunteer information during 09:25  
25 an assessment, but if the FDA comes in to do an 09:25

Page 295

1 audit, people don't volunteer information. 09:25

2 Q. Well, if corporate comes in to do an 09:25

3 audit, they volunteer information don't they, 09:25

4 typically? 09:25

5 A. It's restrained in my experience. 09:25

6 Q. Do you feel that the people who are the 09:25

7 subject of either an assessment or an audit make 09:25

8 that type of distinction or do they kind of look 09:25

9 at it as though it's corporate or the FDA or a 09:25

10 third party asking questions about what they do 09:26

11 and how they do it? 09:26

12 A. I don't know if I really understand the 09:26

13 question. 09:26

14 MR. ANDERTON: Can you read that back, 09:26

15 Phil. 09:26

16 THE WITNESS: I think there's a couple of 09:26

17 questions in there. I think people in 09:26

18 general -- again, confusion on terms. We'll 09:26

19 use my definition audit, a third party coming 09:26

20 in or a corporate entity, something like that, 09:26

21 as opposed to assessment, being 09:26

22 self-assessment you want to uncover 09:26

23 everything. Those two distinctions. I think 09:26

24 people respond to audits and assessments, 09:26

25 self-assessments differently, yes. And the 09:26

Page 296

1 reason for that is that audits -- corporate, 09:26

2 FDA or whatever -- obviously carry tremendous 09:27

3 consequences. 09:27

4 BY MR. ANDERTON: 09:27

5 Q. Okay. When you performed this 09:27

6 assessment of Wyeth with 150 people on site for 09:27

7 three months. 09:27

8 A. About three months. 09:27

9 Q. Okay. Fair enough. 09:27

10 A. And there are several other sites that 09:27

11 were involved as well. 09:27

12 Q. Fair enough. Well, when your team 09:27

13 performed this assessment that lasted 09:27

14 approximately three months at various locations of 09:27

15 Wyeth and you did your soup to nuts review, did 09:27

16 you have access to any information that you 09:27

17 wanted? 09:27

18 A. By agreement and communication with the 09:27

19 company, the official position was yes, we were to 09:27

20 have access to any information we wished. 09:27

21 Q. And by that you mean that was a 09:27

22 condition of you doing the assessment because it's 09:27

23 necessary to do it properly? 09:27

24 A. That's correct. 09:28

25 Q. And that's typical when you do that type 09:28

Page 297

1 of assessment; correct? You need to have full 09:28  
2 access to whatever documents you think are 09:28  
3 necessary and appropriate in order to properly 09:28  
4 perform an assessment as you've described; is that 09:28  
5 right? 09:28

6 A. "Typical" is a very broad term. I don't 09:28  
7 know if I'd necessarily use it. Because, again, 09:28  
8 each consent decree as you know is negotiated 09:28  
9 differently and may involve certain departments 09:28  
10 within the larger company that may or may not 09:28  
11 necessarily be involved with the consent decree or 09:28  
12 initially involved in the consent decree for 09:28  
13 example. 09:28

14 Q. The consent decree -- 09:28

15 A. Yes. 09:28

16 Q. -- or if it's another regulatory 09:28  
17 document is a starting point for the assessment; 09:28  
18 correct? 09:28

19 A. When you say "another regulatory 09:28  
20 document." 09:28

21 Q. Might be a 483, might be a warning 09:28  
22 letter. You've done consulting engagements where 09:28  
23 the company wasn't involved in a negotiated 09:29  
24 consent decree; correct? 09:29

25 A. That's correct. 09:29

Page 298

1 Q. And sometimes you're doing an assessment 09:29  
2 based on an FDA warning letter; correct? 09:29

3 A. Or a preparation for a preapproval 09:29  
4 inspection for FDA, another example. 09:29

5 Q. But to answer my question, it's true 09:29  
6 that you've done assessments where a company 09:29  
7 receives a warning letter, they hire you or people 09:29  
8 that you work with and for and they ask you to do 09:29  
9 what you've described as an assessment on the 09:29  
10 basis of that warning letter; is that true? 09:29

11 A. That is correct, yes. 09:29

12 Q. All right. And have you also done 09:29  
13 assessments on the basis of FDA 483s? 09:29

14 A. Specifically 483s? 09:29

15 Q. Yeah. 09:29

16 A. No. 09:29

17 Q. Okay. When you -- when you do those -- 09:29  
18 and I believe last time you testified that you've 09:29  
19 done about five -- and I think the term that you 09:29  
20 used was audit rather than assessment, you've done 09:30  
21 about five GMP compliance audits in your career. 09:30  
22 Does that sound about right? 09:30

23 A. Let me think about it for a second. 09:30

24 Q. Take your time. 09:30

25 A. Yeah, about five or six. 09:30

Page 299

1 Q. Back to the assessments that you said 09:31  
2 you've done for or on the basis of an FDA warning 09:31  
3 letter. When you undertook those engagements, was 09:31  
4 it also a condition of your engagement that you 09:31  
5 would have access to the documents you and your 09:31  
6 team felt were necessary to review in order to 09:31  
7 conduct the assessment? 09:31

8 A. In the circumstance where it was just a 09:31  
9 warning letter, the project did not start out as 09:31  
10 we're bringing you in to do an assessment. It 09:31  
11 evolved into that. 09:31

12 Q. And when it did -- 09:31

13 A. Yes. 09:31

14 Q. -- did you insist on having full access 09:31  
15 to the documents you deemed necessary to properly 09:32  
16 conduct your assessment? 09:32

17 A. We didn't insist. We just expected 09:32  
18 because it was the next evolution for the client 09:32  
19 to ask for it that we would have what we needed. 09:32

20 Q. Would you do an assessment if a 09:32  
21 potential client said no, we're not going to give 09:32  
22 you access to certain documents? Production 09:32  
23 records for example. 09:32

24 A. Would we do the assessment? 09:32

25 Q. Yeah. 09:32

Page 300

1 A. Depends on what the client wants out of 09:32  
2 the assessment. 09:32

3 Q. Well, if a client hired you to assess 09:32  
4 GMP compliance. 09:32

5 A. Okay. In general. 09:32

6 Q. Yes. 09:32

7 A. Uh-huh. 09:32

8 Q. And said I'm not going to -- I want you 09:32  
9 to do it without looking at production records, 09:32  
10 would you do that? 09:32

11 A. If it was to be a comprehensive review 09:32  
12 of compliance with the GMPs using a quality 09:32  
13 systems based approach, we would inform the client 09:32  
14 that unless we had access to those records, that 09:32  
15 they wouldn't be getting what they were asking 09:33  
16 for. 09:33

17 Q. So they wouldn't be getting a 09:33  
18 comprehensive, accurate assessment of GMP 09:33  
19 compliance? 09:33

20 A. Any my opinion, if they did not give 09:33  
21 open access to the records, yes. 09:33

22 Q. To the production records. That's the 09:33  
23 records I was talking about. 09:33

24 A. Well, specifically -- it depends what 09:33  
25 the client wants; okay? If the client wants the 09:33

Page 301

1 whole thing, then access to production records 09:33

2 would probably be something you would want to have 09:33

3 access to. 09:33

4 Q. And I want -- I guess I want to make 09:33

5 sure this is clear because I was talking about 09:33

6 production records. 09:33

7 A. Okay. I misunderstood you. 09:33

8 Q. I said it -- I thought I said it pretty 09:33

9 clearly. 09:33

10 A. Sorry. 09:33

11 Q. If a client hired you to assess its 09:33

12 general GMP compliance. 09:33

13 A. Right. 09:33

14 Q. And said, I don't want to give you -- I, 09:33

15 client, don't want to give you access to the 09:33

16 production records, you can do it from other 09:33

17 records, could you properly do that? 09:33

18 A. If it was a -- included an assessment of 09:33

19 the production system? 09:33

20 Q. Yes. 09:33

21 A. No, you couldn't. 09:34

22 Q. Couldn't do it? 09:34

23 A. In my opinion, no. 09:34

24 Q. Okay. In your work experience, have you 09:34

25 ever worked in manufacturing? 09:34



Page 302

1 A. On the floor in manufacturing? 09:34

2 Q. Yes. 09:34

3 A. During product development, yes. 09:34

4 Q. What did you do? 09:34

5 A. Helped troubleshoot a fluid bed dryer. 09:34

6 Q. Tell me more about that. 09:34

7 A. I was, had one of my individuals at the 09:34

8 Somerset facility. He was working with a Glatt, 09:34

9 G-L-A-T-T. It's a fluid bed coater if you will. 09:34

10 And he was having a lot of problems with it and 09:34

11 everything else and asked me if I would come in 09:35

12 and watch him go through the process and if I 09:35

13 could offer any suggestions on how to correct it. 09:35

14 Q. Okay. Have you ever actually -- other 09:35

15 than a support functionality as, you know, since 09:35

16 it's troubleshooting like that -- 09:35

17 A. Uh-huh. 09:35

18 Q. -- have you ever actually had daily 09:35

19 responsibilities in the manufacturing context? 09:35

20 A. No. 09:35

21 Q. In a packaging context? 09:35

22 A. As in a production environment package? 09:35

23 Q. Yes. 09:35

24 A. No. 09:35

25 Q. In a QA context. Have you ever been 09:35

Page 303

1 directly in the QA operation or functionality? 09:35

2 A. As we defined it for QA? 09:35

3 Q. Yes. 09:35

4 A. Separate oversight? 09:35

5 Q. Yeah. 09:35

6 A. No. 09:35

7 Q. Do you have a copy of your report, 09:36

8 Dr. Bliesner? 09:36

9 A. I do. 09:36

10 Q. All right. Why don't you get it in 09:36

11 front of you -- 09:36

12 A. Okay. 09:36

13 Q. -- please. And, Mike, this is Exhibit 09:36

14 92. I believe is the version we were looking at 09:36

15 last time. 09:36

16 A. Now, this is my personal version so I 09:36

17 don't have a copy of the 92 that you're working 09:36

18 off of. 09:36

19 Q. Well, let's make sure, then. 09:36

20 A. I know there was a couple of page 09:36

21 discrepancies before. 09:36

22 Q. I understand. So we're going to hand 09:36

23 you a copy of Exhibit 92. 09:36

24 A. Okay. 09:36

25 Q. Turn to page -- well, what is my page. 09:36

Page 304

1 A. It's 92. We should be okay now. 09:37

2 Q. Okay. Fair enough. Yeah, these should 09:37

3 be the same actually. 09:37

4 A. Yes. 09:37

5 Q. So. 09:37

6 A. It was just there was two different 09:37

7 exhibits before and they were a page off because 09:37

8 of formatting or something like that. 09:37

9 Q. Okay. 09:37

10 A. With respect to my format. 09:37

11 Q. So turn to page 21. 09:37

12 A. Okay. 09:37

13 Q. And paragraph number 8 on page 21 which 09:37

14 has the heading "conclusions." 09:37

15 Do you see that? 09:37

16 A. Yes. 09:37

17 Q. And in that paragraph, you issue, I 09:37

18 guess, your opinion in this case; is that 09:37

19 accurate? 09:37

20 A. It is my opinion based on the documents 09:37

21 I reviewed. 09:37

22 Q. Okay. And your opinion is that 09:37

23 adulterated drug product made it to the 09:38

24 marketplace. 09:38

25 Is that a fair characterization of your 09:38

Page 305

1 opinion? 09:38

2 A. We know it did because the pharmacist 09:38

3 found product that was double-thick. 09:38

4 Q. Well, when you give that response, are 09:38

5 you talking about the 2004 circumstances where a 09:38

6 pharmacist reported a double-thick tablet? 09:38

7 A. I'd have to go back through and take a 09:38

8 look. 09:38

9 Q. Please do. 09:38

10 A. Do you have a sticky by chance? 09:40

11 Q. Yes. I don't but? 09:40

12 MS. DREWES: I do. 09:40

13 THE WITNESS: Can I have? 09:40

14 MS. DREWES: Sure. 09:40

15 THE WITNESS: Bunches of them, please. 09:40

16 MS. DREWES: Here. 09:40

17 THE WITNESS: Just to make sure. Else 09:40

18 you know me, I'll be writing all over this 09:40

19 thing. 09:40

20 BY MR. ANDERTON: 09:46

21 Q. Dr. Bliesner, are you re-reading your 09:46

22 report? 09:46

23 A. No, I'm just being careful, make sure 09:46

24 that I pull out the information that you wanted. 09:46

25 Q. Well, I asked you what you were 09:46

Page 306

1 referring to when you said "we know." 09:46

2 A. Uh-huh. 09:46

3 Q. "Product made it to market." 09:46

4 A. Uh-huh. And you asked me to identify 09:46

5 all those circumstances in the report so that's 09:46

6 what I'm doing. Would you like me to stop? 09:46

7 Q. Well, how many do you think there are? 09:46

8 A. I'm going to finish reviewing the report 09:46

9 and then I'll tell you. 09:46

10 Q. Answer my question. How many do you 09:46

11 think there are? 09:46

12 A. I'm not going to say off the top of my 09:46

13 head. 09:46

14 Q. Did you -- did you prepare for this 09:46

15 deposition, Dr. Bliesner? 09:46

16 A. Today? 09:46

17 Q. Yes. 09:46

18 MR. KERENSKY: Mike, that's an 09:46

19 unnecessary question. You don't have to 09:46

20 answer that, Mr. Bliesner. 09:46

21 MR. ANDERTON: Are you instructing him 09:46

22 not to answer that, Mike? 09:46

23 MR. KERENSKY: He's not because that's an 09:46

24 unprofessional question. 09:46

25 MR. ANDERTON: Are you instructing him 09:46

Page 307

1 not to answer? 09:46

2 MR. KERENSKY: Yes. What you're doing -- 09:46

3 MR. ANDERTON: On what basis? 09:46

4 MR. KERENSKY: Change the question, Mike. 09:46

5 MR. ANDERTON: On what basis are you 09:47

6 instructing him not to answer? 09:47

7 MR. KERENSKY: Because it's harassing. 09:47

8 MR. ANDERTON: I'm not harassing him. 09:47

9 I'm asking him -- I'm going to get into this 09:47

10 line of questioning whether at this moment or 09:47

11 some other time. I'm allowed to inquire what 09:47

12 he did to prepare. 09:47

13 MR. KERENSKY: All right. Maybe a later 09:47

14 time when you're actually asking those 09:47

15 questions we'll answer that question. 09:47

16 MR. ANDERTON: No, Mike, you cannot 09:47

17 instruct a witness not to answer because you 09:47

18 don't like the timing of the question. 09:47

19 MR. KERENSKY: Yes, I can. 09:47

20 MR. ANDERTON: No, you cannot. 09:47

21 MR. KERENSKY: Let him finish answering 09:47

22 the question you've asked. 09:47

23 MR. ANDERTON: I'm asking a different 09:47

24 question now. Dr. Bliesner -- 09:47

25 THE WITNESS: Can I get some water? 09:47

Page 308

1 MR. ANDERTON: Yes, you may get some 09:47

2 water. Let's go off the record for a moment. 09:47

3 THE VIDEOGRAPHER: The time is 9:47 a.m. 09:47

4 We're going off the record briefly. 09:47

5 (Short break) 09:48

6 THE VIDEOGRAPHER: The time is 9:48 a.m. 09:48

7 We are back on the record. 09:48

8 BY MR. ANDERTON: 09:48

9 Q. Dr. Bliesner, I'm going to let you 09:48

10 continue your review, but I'm going to briefly ask 09:48

11 you a few questions. 09:48

12 Did you prepare for this deposition today? 09:48

13 A. Some. 09:48

14 Q. What did you do to prepare? 09:48

15 A. At Mike's suggestion I took all of the 09:48

16 boxes and stuff that were disorganized from the 09:48

17 last deposition -- but I did nothing with them -- 09:48

18 and put them in order. 09:48

19 Q. Did you do anything else besides 09:48

20 organize your boxes? 09:48

21 A. Reviewed the report. 09:48

22 Q. You did review the report? 09:48

23 A. Uh-huh. 09:49

24 Q. When did you do that? 09:49

25 A. This morning. 09:49

Page 309

1 Q. This morning? 09:49

2 A. Uh-huh. 09:49

3 Q. When you got here at 7:30 or so? 09:49

4 A. Uh-huh. 09:49

5 Q. What time did you get up to review your 09:49

6 report this morning? 09:49

7 A. I woke up at 3:30 this morning. 09:49

8 Q. Do you typically wake up at 3:30? 09:49

9 A. Unfortunately I have to say this, but 09:49  
10 yes, I do. 09:49

11 Q. It is unfortunate. 09:49

12 A. Middle age. 09:49

13 Q. Did you -- did you review the entire 09:49  
14 report this morning? 09:49

15 A. No. 09:49

16 Q. Well, what parts of it did you review 09:49  
17 and what the purpose of your reviewing the report 09:49  
18 this morning, what were you looking for? 09:49

19 A. Just glancing through, familiarize 09:49  
20 myself with some of the attachments. 09:49

21 Q. Before organizing -- other than 09:49  
22 organizing your boxes and reading your report this 09:49  
23 morning, what else did you do to prepare for this 09:49  
24 deposition today? 09:49

25 A. Preparation, that was it. I didn't do 09:50



Page 310

1 much at all. 09:50

2 Q. Didn't do much at all. Did you meet 09:50

3 with any of the lawyers for the Plaintiffs in this 09:50

4 litigation Mr. Kerensky, Miss Johnson, any of 09:50

5 those lawyers? 09:50

6 A. When you say "meet." 09:50

7 Q. Did you meet with them in person? 09:50

8 A. No. 09:50

9 Q. Did you speak to them on the telephone? 09:50

10 A. I spoke with them but it didn't have 09:50

11 much to do with prep. 09:50

12 Q. Did you speak to them on the telephone? 09:50

13 A. I did speak with Miss Johnson. 09:50

14 Q. Miss Johnson? 09:50

15 A. Yeah, briefly, and confirmed with 09:50

16 Mike -- I can never pronounce. 09:50

17 Q. Kerensky. 09:50

18 A. Kerensky, yeah. 09:50

19 MR. ANDERTON: I got your back, Mike. 09:50

20 MR. KERENSKY: Got it. 09:50

21 BY MR. ANDERTON: 09:50

22 Q. You spoke with Miss Johnson how many 09:50

23 times? 09:50

24 A. Once. 09:50

25 Q. How long did that conversation last? 09:50

Page 311

1 A. About a minute and a half. 09:51

2 Q. That was -- that was since January 25th, 09:51

3 between January 25th and today? 09:51

4 A. No. You asked yesterday in preparation 09:51

5 for this. 09:51

6 Q. No, I said before this deposition. I 09:51

7 was not limiting my question to yesterday. 09:51

8 A. Okay. Before this deposition? 09:51

9 Q. Yeah. So let's break this down, okay, 09:51

10 Dr. Bliesner. 09:51

11 A. Uh-huh. 09:51

12 Q. I need you to listen very carefully, 09:51

13 please. 09:51

14 A. Right. I am. 09:51

15 Q. Since you were -- since we began this 09:51

16 deposition and opened the record on January 25th 09:51

17 and up to today -- 09:51

18 A. Okay. 09:51

19 Q. -- what did you do -- what have you done 09:51

20 to prepare for today's session? 09:51

21 A. What I said already. I organized my 09:51

22 papers and I reviewed the report. Preparation, if 09:51

23 that's what you want to call it, for the -- with 09:51

24 Miss Johnson and Mr. Kerensky was just a matter of 09:51

25 just show up and your organize your papers. I 09:51

Page 312

1 don't think you need to do much else. And you 09:51

2 just do what you did last time. 09:52

3 Miss Johnson didn't provide any guidance 09:52

4 whatsoever. She was in the process of looking up 09:52

5 some additional documentation, but I never looked 09:52

6 at it. 09:52

7 Q. How many times have you -- did you speak 09:52

8 with Miss Johnson between January 25th and today? 09:52

9 A. Specifically a number, I don't know. 09:52

10 Q. More than once? 09:52

11 A. Once, maybe. 09:52

12 Q. Twice? 09:52

13 A. Maybe. I don't think it was more than 09:52

14 two. 09:52

15 Q. Did you speak to her? 09:52

16 A. Yesterday, yes, for sure. 09:52

17 Q. Any time before yesterday and since 09:52

18 January 25th? 09:52

19 A. I don't recall. 09:52

20 Q. How about Mr. Kerensky? Did you speak 09:52

21 to him between January 25th and today? 09:52

22 A. Well, yesterday, coordinated to get 09:52

23 here. 09:52

24 Q. Other than yesterday, have you spoken to 09:52

25 Mr. Kerensky since January 25th? 09:52

Page 313

1 A. Perhaps once. 09:52

2 Q. When? 09:53

3 A. I don't recall specifically. 09:53

4 Q. Was that a telephone conversation? 09:53

5 A. I -- I don't recall specifically. It 09:53

6 was not what you would consider prep. It was just 09:53

7 coordination. 09:53

8 Q. Dr. Bliesner, you need to answer my 09:53

9 questions. 09:53

10 A. Uh-huh. I'm answering your questions. 09:53

11 Q. No, you're not. I asked you if you 09:53

12 spoke to Mr. Kerensky. I didn't ask you to 09:53

13 characterize the phone call yet. 09:53

14 Have you spoken to Mr. Kerensky since January 09:53

15 25th? 09:53

16 A. Yes. 09:53

17 Q. Was it a telephone conversation? 09:53

18 A. Yes. 09:53

19 Q. Have you met with Mr. Kerensky in person 09:53

20 since January 25th? 09:53

21 A. No. 09:53

22 Q. I mean we're only talking about three 09:53

23 weeks. 09:53

24 A. Yeah, I didn't. 09:53

25 Q. Okay. 09:53

Page 314

1 A. I know this was prep per se. It's not 09:53  
2 like we sat down and spent hours going back and 09:53  
3 forth and discussing how I'm supposed to respond 09:53  
4 to your questions or anything like that. It was 09:54  
5 just like are we on? Just organize your paper. 09:54  
6 That stuff. Nothing detailed. 09:54

7 Q. So you didn't have any discussion with 09:54  
8 Mr. Kerensky since January 25th about what 09:54  
9 happened on January 25th and what you might expect 09:54  
10 to happen during this session? 09:54

11 A. Between January 25th and this morning? 09:54

12 Q. Yes. 09:54

13 A. Interestingly enough, I don't think I 09:54  
14 heard anything from him following the whole thing. 09:54

15 Q. Well, how many times did you speak to 09:54  
16 him? 09:54

17 A. I said yesterday I know for sure. Maybe 09:54  
18 one other time to coordinate the schedule and that 09:54  
19 was it. 09:54

20 Q. Well, he told you to organize your 09:54  
21 papers. That's not coordinating the schedule, is 09:54  
22 it? 09:54

23 A. It's -- it's what he told me to do. He 09:54  
24 says don't worry necessarily about preps, words to 09:54  
25 that effect. Just organize your papers so you 09:54

Page 315

1 don't flounder around and waste people's time. 09:54

2 Q. And how long was your conversation with 09:55

3 Mr. Kerensky? 09:55

4 A. That particular one? 09:55

5 Q. Yeah. 09:55

6 A. Maybe a minute or two. 09:55

7 Q. Were there other conversations before 09:55

8 yesterday and since January 25th besides that 09:55

9 minute or two conversation? 09:55

10 A. There may have been one other, but it 09:55

11 was nothing extensive. 09:55

12 Q. How long was it? 09:55

13 A. If there was one, it was e-mail or 09:55

14 whatever. Similar thing. Maybe a minute and a 09:55

15 half. 09:55

16 Q. Well, was it a conversation or was it 09:55

17 e-mail communication. Because I haven't asked 09:55

18 about e-mails communications. I asked you about 09:55

19 conversations. 09:55

20 A. I don't know. I'd have to go pull them 09:55

21 out and look at them. All I know is none of these 09:55

22 conversations were substantive in terms of 09:55

23 guidance or anything like that. 09:55

24 Q. Dr. Bliesner, I am entitled to find out 09:55

25 how many there were, then we'll talk about the 09:55

Page 316

1 substance of them; okay? 09:55

2 A. I cannot tell you with certainty how 09:55

3 many telephone conversations or e-mails I had with 09:55

4 them. I know that it was not a large number. 09:55

5 Q. Okay. So you know that it was more than 09:56

6 one, though; correct? 09:56

7 A. I can't say that with certainty. I 09:56

8 really don't. My life is busy. I'm working 70, 09:56

9 80 hours a week on another consulting job. This 09:56

10 is minor in terms of coordination, get things 09:56

11 done. I don't know. I can't say it explicitly. 09:56

12 I'm not going to make stuff up to make you happy. 09:56

13 Q. I'm not asking you to make me happy. 09:56

14 I'm merely asking you to answer my questions 09:56

15 truthfully. 09:56

16 As we said earlier, you're a very intelligent 09:56

17 man and we're only talking about a three-week 09:56

18 period here. 09:56

19 MR. KERENSKY: I think I need a break. 09:56

20 MR. ANDERTON: Why do you need a break? 09:56

21 MR. KERENSKY: I have to go to the 09:56

22 bathroom. 09:56

23 MR. ANDERTON: All right. All right. 09:56

24 Let's go off the record. 09:56

25 THE VIDEOGRAPHER: The time is 09:56

Page 317

1 9:56 p.m. -- we're going -- or a.m. We're 09:56

2 going off the record. 09:56

3 (Short break) 10:08

4 THE VIDEOGRAPHER: The time is . We 10:08

5 are back on the record. This is the beginning 10:08

6 of tape three. 10:08

7 MR. ANDERTON: Mike, are you with us? 10:09

8 MR. KERENSKY: I am. 10:09

9 BY MR. ANDERTON: 10:09

10 Q. All right. Dr. Bliesner, before 10:09

11 Mr. Kerensky's break or requested break, we were 10:09

12 discussing what you've done to prepare for today's 10:09

13 session and I just want to remind you of something 10:09

14 we agreed earlier in the day and that is that you 10:09

15 would focus very hard on the questions that I ask 10:09

16 and do your best to actually answer those 10:09

17 questions. 10:09

18 A. I understand. 10:09

19 Q. Okay. So I'm going to go back into some 10:09

20 of that subject. 10:09

21 A. Okay. 10:09

22 Q. How many times have you spoken to 10:09

23 Mr. Kerensky on the telephone since January 25th? 10:09

24 A. I really honestly don't know. 10:09

25 Q. Is it more than just yesterday? 10:09



Page 318

1 A. I really honestly don't know. 10:09

2 Q. Dr. Bliesner, we're talking about a 10:09

3 three-week period and you're -- as I've said -- 10:09

4 obviously a very intelligent, very organized 10:10

5 individual. Prepared a very extensive report in 10:10

6 this case, reviewed thousands of pages of 10:10

7 documents. I'm merely asking you how many times 10:10

8 you've spoken on the telephone to Mr. Kerensky in 10:10

9 the last three weeks. 10:10

10 A. I honestly cannot tell you for sure. 10:10

11 Q. Have you spoken to any lawyers other 10:10

12 than Mr. Kerensky and Ms Johnson in the last three 10:10

13 weeks? 10:10

14 A. Yes. 10:10

15 Q. Who? 10:10

16 A. A gentleman out of Oklahoma. 10:10

17 Q. Brad Miller? 10:10

18 A. Yes. 10:10

19 Q. When did you speak to Brad Miller? 10:10

20 A. Yesterday. 10:10

21 Q. What prompted that phone conversation 10:10

22 with Mr. Miller? 10:10

23 A. Apparently he had the opportunity to 10:10

24 review my report. 10:10

25 Q. And tell me about that conversation with 10:10

Page 319

1 Mr. Miller. 10:10

2 A. He was just curious of -- my involvement 10:11

3 in the -- in this case. 10:11

4 Q. How long did the phone conversation last 10:11

5 with Mr. Miller, yesterday? 10:11

6 A. Maybe a half an hour. 10:11

7 Q. So what did you discuss with Mr. Miller 10:11

8 during that 30-minute or so phone conversation? 10:11

9 A. What I did for a living primarily. 10:11

10 Q. Yeah. 10:11

11 A. And a few things about the report. 10:11

12 Q. Such as? Mike? Mike? Mike? 10:11

13 MR. KERENSKY: Yes, sorry, sorry, sorry. 10:11

14 BY MR. ANDERTON: 10:12

15 Q. A few things about the report, 10:12

16 Dr. Bliesner. Such as what? 10:12

17 A. The conclusions that were in there. 10:12

18 That was it primarily. 10:12

19 Q. Well tell me about that discussion with 10:12

20 Mr. Miller about the conclusions that were in 10:12

21 there. 10:12

22 A. Just what's written in the report. My 10:12

23 conclusions with respect to compliance and those 10:12

24 kinds of things. It wasn't a very specific 10:12

25 discussion. It was more about my work background, 10:12

Page 320

1 what I'd done, what I do now, things like that. 10:12

2 Q. Well, I want to know what you discussed 10:12

3 with him with respect to the conclusion in your 10:12

4 report. Tell me about that conversation. It was 10:12

5 just yesterday. 10:12

6 A. Yes. 10:12

7 Q. So tell me about that conversation. 10:12

8 A. Basically said you have the report, the 10:12

9 conclusions that I have come to in the report are 10:12

10 supported by the documents that are in the 10:12

11 attachment. That's how I did the review. 10:12

12 Q. What kind of questions did Mr. Miller 10:12

13 ask you with respect to the conclusions in your 10:12

14 report yesterday? 10:12

15 A. I think he asked me if I reviewed any 10:13

16 additional documents since I wrote the report. 10:13

17 Q. What did you tell him? 10:13

18 A. I said additional documents, no. It was 10:13

19 just like I told you. I just prepared for this 10:13

20 and then organized them, so... 10:13

21 Q. Well, you didn't tell me that you 10:13

22 prepared for this. 10:13

23 A. Well, what I did to get ready for this 10:13

24 was organize my mass of documents after the last 10:13

25 thing so I wouldn't waste time. 10:13

Page 321

1 Q. Okay. And so he asked you what 10:13

2 additional documents or whether you had reviewed 10:13

3 any additional documents. You told Mr. Miller you 10:13

4 had not reviewed any additional documents since 10:13

5 you wrote the report? 10:13

6 A. I'm pretty sure that's what I told him. 10:13

7 Q. Well, let me ask you -- 10:13

8 A. Uh-huh. 10:13

9 Q. -- have you reviewed any additional 10:13

10 documents since you wrote the report? 10:14

11 A. Other than what was already present -- 10:14

12 what I did the last time, no, I have not. 10:14

13 Q. What do you mean by other than what you 10:14

14 did the last time. 10:14

15 A. This stuff. All of these documents that 10:14

16 are in here. 10:14

17 Q. The documents that are in there -- and 10:14

18 so that we're clear, Dr. Bliesner, you're pointing 10:14

19 to boxes that you brought with you; correct? 10:14

20 A. Uh-huh. 10:14

21 Q. Those are documents you had reviewed as 10:14

22 you wrote the report or as you were in the process 10:14

23 of writing the report; is that correct? 10:14

24 A. Yes. The supporting data for this. 10:14

25 Q. "The supporting data for this" meaning 10:14

Page 322

1 your report? 10:14

2 A. Yes. 10:14

3 Q. Are the documents in these boxes that 10:14

4 you read and reviewed after you wrote and 10:14

5 submitted the report -- the date of your report is 10:14

6 June 15, 2010. 10:14

7 A. This would be the only one. This is the 10:14

8 deposition. 10:14

9 Q. Of? 10:14

10 A. Of last time we met. It was sent to me, 10:14

11 but I need to review. I haven't gotten all the 10:15

12 way through it. 10:15

13 Q. So the transcript of January 25th? 10:15

14 A. Yes. 10:15

15 Q. Your deposition proceedings? 10:15

16 A. Yes. 10:15

17 Q. Is that the only document that you have 10:15

18 reviewed that relates to this litigation and to 10:15

19 your report since you wrote the report? 10:15

20 A. No. Because you also asked me to get 10:15

21 what my hourly rate was and the billing records. 10:15

22 Q. Okay. 10:15

23 A. So those are the things. 10:15

24 Q. Other than your billing records and the 10:15

25 transcript of the January 25th session, are there 10:15

Page 323

1 any other documents that you've reviewed that 10:15  
2 relate to this litigation and to the report issued 10:15  
3 in this litigation since June 15, 2010? 10:15

4 A. Since June 15th? 10:15

5 Q. Since you submitted your report. 10:15

6 A. Uh-huh. I can't recall if there were 10:15  
7 any specific additional documents. I don't 10:16  
8 believe there were. Because when the report was 10:16  
9 done, I was pretty much checked out and 10:16  
10 concentrating on a current client. 10:16

11 Q. When Mr. Miller asked you that question 10:16  
12 yesterday, is that what you told him as well, that 10:16  
13 you can't recall? 10:16

14 A. He didn't explicitly ask the question 10:16  
15 like you did. 10:16

16 Q. What did he ask? 10:16

17 A. He said have you reviewed any additional 10:16  
18 documentation. 10:16

19 Q. And what did you say? 10:16

20 A. I said not that I remember. 10:16

21 Q. What else did Mr. Miller ask you? 10:16

22 A. That was about it. 10:16

23 Q. Well, it was a 30-minute conversation, 10:16  
24 Dr. Bliesner. And it doesn't take 30 minutes to 10:16  
25 ask you if you reviewed additional documents and 10:16

Page 324

1 to talk about the background of the work that you 10:16

2 do. So what else did Mr. Miller ask you yesterday 10:16

3 when you spoke with him? 10:16

4 A. We talked about -- just to get 10:16

5 acquainted, talked about my other two companies. 10:16

6 Q. Did you talk about your deposition 10:17

7 today? 10:17

8 A. I did mention to him that I went through 10:17

9 it. 10:17

10 Q. That you were? 10:17

11 A. Today's? 10:17

12 Q. Yes. 10:17

13 A. No, no. But the one before, yeah. 10:17

14 Q. Did you talk about your January 25th 10:17

15 session with him? 10:17

16 A. A little, yes. 10:17

17 Q. What did you talk about with him with 10:17

18 respect to the January 25th deposition session? 10:17

19 A. How difficult it was because I've never 10:17

20 done anything like this before. 10:17

21 Q. Why do you think it's difficult? 10:17

22 A. It's just a different way of doing 10:17

23 business than anything I've ever seen before. 10:17

24 Q. In what way? 10:17

25 A. That's a good question. 10:17

Page 325

1 Q. Every so often I try to come up with a 10:17  
2 good one. 10:17

3 A. I'm used to collaborative conversations 10:17  
4 not combative conversations. 10:17

5 Q. I don't intend for this to be a 10:18  
6 combative conversation. Do you intend for this to 10:18  
7 be a combative conversation? 10:18

8 A. Absolutely not. 10:18

9 Q. Do you think this is a combative 10:18  
10 conversation? 10:18

11 A. It's not fun. I can tell you that. 10:18

12 Q. Well, just because it's not fun doesn't 10:18  
13 mean it's combative, does it? 10:18

14 A. I suppose not. 10:18

15 Q. Do you think this is a combative 10:18  
16 conversation or a combative process? 10:18

17 MR. KERENSKY: I think you can be that 10:18  
18 way, Mike. But let's try and ask some real 10:18  
19 questions about the case. 10:18

20 BY MR. ANDERTON: 10:18

21 Q. I'm waiting for an answer, Dr. Bliesner. 10:18

22 A. I don't know if combative is the right 10:18  
23 word for it, but it's not the give and take, 10:18  
24 casual problem-solving in an open environment that 10:18  
25 I'm used to in my workplaces. 10:18



Page 326

1 Q. And were you told to make it so when you 10:19  
2 prepared for your first deposition session? 10:19

3 A. Told what, sir? 10:19

4 Q. Well, I'm going to hand you -- and I 10:19  
5 don't have a stapler so this isn't stapled. 10:19

6 A. Uh-huh. 10:19

7 Q. We marked this last time as -- 10:19

8 A. Yes. 10:19

9 Q. -- Exhibit 109. 10:19

10 A. Yes. 10:19

11 Q. Do you see that, Dr. Bliesner? 10:19

12 A. I do. 10:19

13 Q. Tell me what it is. Mike. Typing. 10:19

14 MR. KERENSKY: I'm sorry. 10:19

15 THE WITNESS: This is my notes of 25 10:19

16 January. Yeah, outlines a condensation of 10:19

17 points that are listed in the report, some 10:19

18 scratching with respect to calculation that we 10:20

19 were talking about. 10:20

20 BY MR. ANDERTON: 10:20

21 Q. And you actually made the body notes on 10:20  
22 page 1 during your last deposition; right? 10:20

23 A. Bottom one, yes, yes. Yeah, that was 10:20  
24 the thickness discussion if I recall properly. 10:20

25 Q. All right. 10:20

Page 327

1 A. Uh-huh. 10:20

2 Q. So, let's go to page 2. 10:20

3 A. Okay. 10:20

4 Q. What are those? 10:20

5 A. Guidance from Mr. Kerensky on how things 10:20

6 would go generally in a deposition because I've 10:20

7 never been in one like this, so... 10:20

8 Q. These are notes that you made -- 10:20

9 A. Uh-huh. 10:20

10 Q. -- of a conversation? You have to 10:20

11 answer yes or no, Doctor. 10:20

12 A. Oh, I'm sorry. Yes. 10:20

13 Q. Of a conversation you had with 10:20

14 Mr. Kerensky? 10:20

15 A. And Mr. Miller and the other gentleman 10:20

16 that was with them, the other attorney. 10:20

17 Q. Mr. Thompson, Fred Thompson? 10:20

18 A. No, no, no. This was the day before 10:20

19 the -- 10:21

20 MR. KERENSKY: I think it was Terry 10:21

21 Kilpatrick. 10:21

22 MR. ANDERTON: Terry Kilpatrick? 10:21

23 THE WITNESS: Yeah. 10:21

24 MR. KERENSKY: Meghan was there, too. 10:21

25 THE WITNESS: Meghan, yeah, was there 10:21

Page 328

1 too. 10:21

2 BY MR. ANDERTON: 10:21

3 Q. So there were four lawyers there: 10:21

4 Mr. Kerensky, Mr. Miller, Ms Johnson, and 10:21

5 Mr. Kilpatrick. 10:21

6 A. Yes. 10:21

7 Q. Who told you to answer questions as 10:21

8 briefly as possible, to give no more or no less 10:21

9 than is needed? 10:21

10 A. I believe that they -- all of the people 10:21

11 in that room gave that guidance if I recall. 10:21

12 Q. One of your notes here says, "saying no 10:21

13 closes the door." What does that mean? Well, 10:21

14 what does it mean? 10:21

15 A. If there is additional information that 10:21

16 needs to come out that would clarify the 10:21

17 situation, you can just go no. Then you're not 10:21

18 going to have that conversation again. So -- as I 10:21

19 understood the guidance. 10:22

20 Q. Who -- well, whose term is "closes the 10:22

21 door." Who said that to you? 10:22

22 A. I don't know which one specifically. 10:22

23 This is a whole new process for me at this stage 10:22

24 of the game so I was just listening. 10:22

25 Q. What does it mean, "keep doors open." 10:22

Page 329

1 What does that mean? 10:22

2 A. If there's line of questions that would 10:22

3 add clarification to the conversation, I want to 10:22

4 make sure that they stay open. Just saying no, it 10:22

5 stops conversation potentially in the future. 10:22

6 Q. And your notes say "yes, but" and what I 10:22

7 will call ellipses and "no, but" with another 10:22

8 ellipses. What do those notes mean? 10:22

9 A. Those are with respect to, for instance, 10:22

10 if you would ask a question that was very narrow 10:22

11 that didn't necessarily include the additional 10:22

12 information that I felt would be appropriate to 10:22

13 explain the situation, "but" let's me continue on 10:22

14 to give the additional information to clarify the 10:22

15 point. 10:23

16 Q. So you don't believe in answering -- 10:23

17 they told you not to answer a narrowly crafted 10:23

18 question with a narrow answer; is that right? 10:23

19 A. I don't think I got that specific 10:23

20 guidance. 10:23

21 Q. Well, I was merely following up on your 10:23

22 response a moment ago, Dr. Bliesner. 10:23

23 These notes are from a meeting that occurred 10:23

24 when? 10:23

25 A. That was the day before we had the first 10:23

Page 330

1 deposition. 10:23

2 Q. So January 24th. 10:23

3 A. I believe that was the date, yes. 10:23

4 Q. Did you meet with the lawyers for the 10:23

5 Plaintiffs in person to prepare for the January 10:23

6 25th deposition other than on January 24? 10:23

7 A. To prepare for the deposition? 10:23

8 Q. Yes. 10:23

9 A. No. 10:23

10 Q. Did you talk to them on the telephone, 10:23

11 any of them, to prepare for the deposition other 10:23

12 than on January 24th? 10:24

13 A. I can't recall specifically. 10:24

14 Q. You don't remember whether you even had 10:24

15 a conversation with them? 10:24

16 A. No, I don't. I have conversations with 10:24

17 people day in and day out and this is just one 10:24

18 small part of it. I can't recall. 10:24

19 Q. Well, you had to make arrangements to 10:24

20 meet with them on the 24th; correct? 10:24

21 A. Yes. 10:24

22 Q. So you had to have some communication. 10:24

23 Do you think that was by telephone? 10:24

24 A. Perhaps and perhaps e-mail. I have to 10:24

25 go back and look at them. 10:24

Page 331

1 Q. Well, would you have those e-mails with 10:24  
2 you? 10:24

3 A. I believe I gave all of those to Miss 10:24  
4 Johnson. We copied them over off of an external 10:24  
5 hard drive and she has them. 10:25

6 Q. She has them? 10:25

7 A. Huh-huh. 10:25

8 Q. Do you have them? 10:25

9 A. No. 10:25

10 Q. Do you have the hard drive with you? 10:25

11 A. Yes. 10:25

12 Q. May I see it, please? 10:25

13 A. Sure. 10:25

14 Q. Let's go back to your conversation 10:25  
15 yesterday with Brad Miller. 10:25

16 A. Okay. 10:25

17 Q. How did he come to have your contact 10:25  
18 information, do you know? 10:25

19 A. I believe he said Pete Miller and he had 10:25  
20 interacted. I believe that's what he said. 10:25

21 Q. Did -- did Mr. Miller -- Brad Miller, 10:25  
22 since we now have two Millers -- did Brad Miller 10:25  
23 yesterday -- did you and he discuss the 10:25  
24 possibility of him retaining you as an expert in 10:26  
25 his case? 10:26

Page 332

1 A. We did have that conversation. 10:26

2 Q. And tell me about that conversation. 10:26

3 A. He asked me, you know, whether I was 10:26

4 interested potentially in doing it. 10:26

5 MR. KERENSKY: I need to interrupt for a 10:26

6 second. We may be treading into a violation 10:26

7 of the consulting expert privilege. 10:26

8 MR. ANDERTON: Well, okay. 10:26

9 MR. KERENSKY: Because I don't know if 10:26

10 Brad hired him or not hired him. At this 10:26

11 point, I think that would make him a 10:26

12 consulting expert. Since I'm here not for -- 10:26

13 I'm here for Miss Vega, but I think the 10:26

14 witness should be advised that conversations 10:26

15 prior to being retained by a Plaintiff's 10:26

16 lawyer are confidential and protected and 10:26

17 privileged under what we call the consulting 10:26

18 expert rule. And until you're retained and 10:26

19 disclosed as a testifying expert, those 10:26

20 conversations are privileged. And I guess I 10:27

21 will assert that privilege on behalf of Mr. -- 10:27

22 is it Miller, Brad Miller? 10:27

23 THE WITNESS: Yes. 10:27

24 MR. KERENSKY: Okay. 10:27

25 MR. ANDERTON: Well, Mike, I'm not sure I 10:27

Page 333

1 agree with your characterization of the 10:27  
2 privilege and I hope that you're not making a 10:27  
3 representation of Oklahoma law with respect to 10:27  
4 expert privileges, are you? 10:27

5 MR. KERENSKY: Oh, I think it's in the 10:27  
6 federal rules, consulting experts. 10:27

7 MR. ANDERTON: Well, you are aware 10:27  
8 Mr. Kerensky of course that the case 10:27  
9 Mr. Miller is discussing with Dr. Bliesner -- 10:27  
10 with Dr. Bliesner is not a federal case; 10:27  
11 right. 10:27

12 MR. KERENSKY: Well, I'm guessing that 10:27  
13 Oklahoma law probably has the same privileges 10:27  
14 as every other state I've been in. So no 10:28  
15 doubt I'm guessing but I want to make sure 10:28  
16 that I assert the privilege to the extent it 10:28  
17 exists. During the case I'm sure you've 10:28  
18 updated yourself on the rules and know one way 10:28  
19 or the other whether it exists. And I just 10:28  
20 think I owe it to him to assert it at this 10:28  
21 time. 10:28

22 MR. ANDERTON: Okay. 10:28

23 BY MR. ANDERTON: 10:28

24 Q. Have you been retained by Brad Miller? 10:28

25 A. No. 10:28



Page 334

1 Q. Do you anticipate that you're going to 10:28  
2 talk to him again? 10:28

3 A. Perhaps. 10:28

4 Q. Let's go back to what you did to 10:28  
5 prepare. 10:29

6 The -- before January 25th, we know that you 10:29  
7 met with Mr. Kerensky and several other folks to 10:29  
8 prepare for the session the next day. How long 10:29  
9 did that meeting on January 24th last? 10:29

10 A. I think last time I said it was 10:29  
11 something in the neighborhood of four, five hours, 10:29  
12 something like that. 10:29

13 Q. Did you -- 10:29

14 A. That I recall. 10:29

15 Q. I asked you a moment ago if you met with 10:29  
16 any of those Plaintiffs' lawyers in person other 10:29  
17 than on January 24th. Your testimony was no, you 10:29  
18 did not; correct? 10:29

19 A. For preparation with the deposition. 10:29

20 Q. You met with them in person as you 10:29  
21 prepared your report? 10:29

22 A. Yes, one time. 10:29

23 Q. Where was that? 10:30

24 A. In Indian Rocks Beach. 10:30

25 Q. They came to see you? 10:30

Page 335

1	A.	Uh-huh.	10:30
2	Q.	Yes or no?	10:30
3	A.	They came to see me. Yes. Sorry.	10:30
4	Q.	That's all right.	10:30
5	A.	Sorry.	10:30
6	Q.	I'm just trying to make sure that the.	10:30
7	A.	Yes.	10:30
8	Q.	Videographer and court reporter --	10:30
9	A.	It actually wasn't in preparation of	10:30
10		the -- well, it wasn't writing the report. They	10:30
11		just delivered more documents to me.	10:30
12	Q.	In person?	10:30
13	A.	Uh-huh.	10:30
14	Q.	That's awfully nice of them.	10:30
15	A.	Uh-huh.	10:30
16	Q.	Who did that?	10:30
17	A.	Who was there?	10:30
18	Q.	Yeah, who delivered the documents?	10:30
19	A.	It was Pete Miller and Meghan Johnson	10:30
20		Carter.	10:30
21	Q.	How long -- did you have a meeting with	10:30
22		them when they delivered more documents?	10:30
23	A.	They actually came over to my home	10:30
24		office.	10:30
25	Q.	So did you have a meeting with them?	10:30

Page 336

1 A. If you'd call it a meeting, yes. 10:30

2 Q. How long? 10:30

3 A. I honestly have to go back and look it 10:30

4 up. 10:30

5 Q. Did you bring your billing and time 10:30

6 records with you? 10:30

7 A. Yes, I did. 10:30

8 Q. May I see them? 10:30

9 A. Sure. 10:30

10 Q. Phil, you want to mark those, please? 10:31

11 Let's call it 145 please. 10:31

12 (Whereupon, Exhibit 145 was marked for 10:31

13 identification) 10:31

14 Dr. Bliesner, I'm looking at a document that 10:31

15 has been marked as Exhibit 145. 10:31

16 A. Uh-huh. 10:31

17 Q. And it is a stack of invoices that you 10:31

18 just handed me; is that correct? 10:31

19 A. I guess it is. 10:32

20 Q. Is this all of the invoices that you 10:32

21 have submitted to Plaintiffs' counsel for your 10:32

22 services as an expert witness? Dr. Bliesner, you 10:32

23 just handed -- I asked you if you had -- 10:32

24 A. Yes. 10:32

25 Q. -- your billing records. 10:32

Page 337

1 A. I don't do the billing so I don't know 10:32

2 if these are all of the invoices. I was looking 10:32

3 for the last date on here. 10:32

4 Q. You were asked to bring them with you. 10:32

5 A. Yes. 10:32

6 Q. I just asked you if you brought them. 10:32

7 You said yes. 10:32

8 A. Yes, sir. 10:32

9 Q. In response I said may I see them and 10:32

10 you said yes. 10:32

11 A. Yes. 10:32

12 Q. And then you handed me a stack of 10:32

13 documents. 10:32

14 A. Yes, sir. 10:32

15 Q. Are you now looking at them as though 10:32

16 you're not sure whether you actually brought the 10:32

17 right records with you? What are you doing? 10:32

18 A. Well, you said "all records"; okay. 10:32

19 Q. I said are they all of the invoices. 10:32

20 A. All the invoices. I Am not sure because 10:32

21 I prepared this stack immediately after the last 10:32

22 deposition at your request. I'm not sure whether 10:32

23 that deposition invoice was included in this 10:33

24 stack. See what I'm saying? 10:33

25 Q. Okay. 10:33

Page 338

1 A. That's all I'm trying to do. 10:33

2 Q. You were asked to bring them with you 10:33

3 today. Did you not double check to make sure you 10:33

4 had all the records you were supposed to bring? 10:33

5 A. I forwarded them via e-mail to 10:33

6 Mr. Miller and Mr. -- Miss Johnson before. So I 10:33

7 made the assumption that they forwarded them to 10:33

8 you. 10:33

9 Q. They did not. 10:33

10 A. Okay 10:33

11 Q. And you know that you were asked to 10:33

12 bring them with you today; right? 10:33

13 A. Yes, yes. 10:33

14 Q. So -- 10:33

15 A. I brought a copy because I thought that 10:33

16 you got them all. 10:33

17 Q. I have got nothing. 10:33

18 A. Okay. 10:33

19 Q. From any of the lawyers and Plaintiffs. 10:33

20 A. Okay. 10:33

21 Q. Or any of the Plaintiffs' lawyers. 10:33

22 A. Okay. 10:33

23 Q. That's why we asked you to bring them. 10:33

24 A. Okay. 10:33

25 Q. You understood that you were supposed to 10:33

Page 339

1 bring all of your billing records today; correct? 10:33

2 A. Not specifically because I'd already 10:33

3 provided them. I just brought this because this 10:33

4 is the hard copy that I had I scanned in e-mail, 10:33

5 so... 10:34

6 Q. When did you provide them to Plaintiffs' 10:34

7 counsel? After January 25th? 10:34

8 A. Yes. At your request. 10:34

9 Q. Okay. I guess then you have to look 10:34

10 through that stack of documents and take up more 10:34

11 of our time looking at something that you should 10:34

12 know because you should have been prepared to 10:34

13 bring them with you today, but if you need to, 10:34

14 please do. 10:34

15 MR. KERENSKY: Objection, form. 10:34

16 MR. ANDERTON: Proceed, Dr. Bliesner. 10:34

17 THE WITNESS: This does not include last, 10:35

18 the 25th's billing. 10:35

19 BY MR. ANDERTON: 10:35

20 Q. Have you invoiced Plaintiffs' counsel 10:35

21 for that -- for the time that you spent preparing 10:35

22 for and participating in the January 25th 10:35

23 deposition? 10:35

24 A. I don't know because I don't do it. 10:35

25 Q. Dr. Bliesner, I see -- did you review 10:35

Page 340

1 these documents before you came here today? 10:35

2 A. That stack? 10:35

3 Q. Yes. 10:35

4 A. No. 10:35

5 Q. The first invoice indicates a rate of 10:35

6 \$350. It's dated January 16, 2010, \$350 per 10:35

7 hour. And the next invoice dated a week later, 10:35

8 January 23rd, indicates a rate of \$550 per hour. 10:35

9 Did your rate go up? 10:35

10 A. There was a misunderstanding on the rate 10:35

11 to begin with. 10:36

12 Q. Whose misunderstanding? 10:36

13 A. The Miller Law Firm. 10:36

14 Q. You sent the invoice out. 10:36

15 A. Yes. 10:36

16 Q. So whose misunderstanding? 10:36

17 A. This was the additional -- I thought 10:36

18 that you received that as well but apparently not. 10:36

19 Q. As I've said, I've not received anything 10:36

20 from Plaintiffs about -- 10:36

21 A. Uh-huh. 10:36

22 Q. -- your communications with them -- 10:36

23 A. Uh-huh. 10:36

24 Q. -- your billing records -- 10:36

25 A. Uh-huh. 10:36

Page 341

1 Q. -- anything. 10:36

2 A. Uh-huh. 10:36

3 Q. So you just handed me a document that 10:36

4 Phil is going to mark as Exhibit 146. 10:36

5 A. Uh-huh. 10:36

6 Q. Please, Phil. Thank you, sir. 10:36

7 A. And this was prior to being retained 10:37

8 obviously. 10:37

9 Q. Prior to being retained. 10:37

10 A. Yes. 10:37

11 (Whereupon, Exhibit 146 was marked for 10:37

12 identification) 10:37

13 Q. So I'm reading a letter that says -- 10:37

14 well, tell me what this is, 146. Is it an e-mail, 10:37

15 is it a letter, what is it? 10:37

16 A. This is -- I believe it is a Word 10:37

17 document that I cut and paste into e-mail. So I 10:37

18 can -- I design a document first. 10:37

19 Q. Okay. 10:37

20 A. And I put it in an e-mail. So this is 10:37

21 what that is. 10:37

22 Q. That's just a Word document? 10:37

23 A. I'm thinking it is. 10:37

24 Q. You're thinking it is? 10:37

25 A. Yeah. I'm not sure; okay? Because it 10:37



Page 342

1 doesn't have the headers on it or not so I can't 10:37

2 say definitively. On something like this normally 10:37

3 for a business transaction -- because I would like 10:37

4 to be accurate in an e-mail -- I create a Word 10:37

5 document first, do spell check and everything else 10:37

6 and I cut and paste it in an e-mail. 10:37

7 Q. So you copy the text? 10:38

8 A. Yes. 10:38

9 Q. And paste it into an e-mail? 10:38

10 A. Yes, sir. 10:38

11 Q. So that means that -- well, did you send 10:38

12 this -- the contents of the document that is 10:38

13 marked as 146 to Mr. Miller? 10:38

14 A. I did. 10:38

15 Q. In what form? 10:38

16 A. In e-mail. 10:38

17 Q. Do you have that e-mail with you? 10:38

18 A. I do not. 10:38

19 Q. Why not? 10:38

20 A. Because I gave all the e-mails to Miss 10:38

21 Johnson Carter. 10:38

22 Q. May I see that, please? 10:38

23 A. Sure. 10:38

24 Q. So you sent an e-mail to Mr. Miller 10:38

25 somewhere around January 4, 2010, with the 10:38

Page 343

1 following text or that includes the following 10:38

2 text. As discussed, my rates are, and then you 10:38

3 list your rates. 10:38

4 A. Uh-huh. 10:38

5 Q. \$350 an hour for standard document 10:38

6 review, on-site time, consultations, etc. 10:38

7 A. Uh-huh. 10:38

8 Q. \$450 an hour for testimonies or 10:38

9 depositions? 10:38

10 A. Uh-huh. 10:39

11 Q. Is that right? Is that correct? 10:39

12 A. Is that what it says there? Yes. 10:39

13 Q. And \$550 involving for any cases 10:39

14 involving capital crimes. 10:39

15 A. Uh-huh. 10:39

16 Q. You have to say yes or no. 10:39

17 A. Yes, sorry. 10:39

18 Q. That's all right. 10:39

19 A. I'll get this some day. 10:39

20 Q. So the first invoice you submitted was 10:39

21 at the \$350 per hour rate? 10:39

22 A. Yes. 10:39

23 Q. And every invoice thereafter was at the 10:39

24 \$550 per hour rate. 10:39

25 A. Yes. 10:39

Page 344

1 Q. Does this case involve a capital crime? 10:39

2 A. Well, it involved a death potentially. 10:39

3 So that wasn't necessarily explained to me when I 10:39

4 was doing the initial consultation. 10:39

5 Q. So you quoted your rate as \$550 per hour 10:39

6 for a case involving a capital crime? 10:39

7 A. A death, potentially. A capital crime, 10:39

8 I don't know the legal term. So that's the term I 10:39

9 used. 10:39

10 Q. Oh, you used capital crime to indicate a 10:39

11 death? 10:39

12 A. Anything that involved potentially a 10:39

13 death, yes. I'm not a lawyer. It's just a term 10:39

14 that I came up with. 10:39

15 Q. Had you ever been involved -- you've 10:39

16 never been an expert witness before. 10:40

17 A. No, absolutely not. This is all brand 10:40

18 new stuff for me. So there was confusion on that 10:40

19 and it turns out that there was potentially 10:40

20 somebody that was hurt, so the rate was increased 10:40

21 to 550. 10:40

22 Q. You misunderstood that there was 10:40

23 potentially somebody who was hurt? 10:40

24 A. It was never specifically told to me 10:40

25 that, you know, it was put to me we've got a case 10:40

Page 345

1 going on, something like this. I do have a 10:40  
2 question, though, you know? This is falling into 10:40  
3 pre, you know, retainer and stuff like that. Do I 10:40  
4 have the same right not to discuss the details 10:40  
5 here? 10:40

6 MR. ANDERTON: Well, Mr. Kerensky -- like 10:40  
7 I said, I disagree with Mr. Kerensky's 10:40  
8 characterization of the scope of that 10:40  
9 privilege. 10:40

10 THE WITNESS: Right. 10:40

11 MR. ANDERTON: So... 10:40

12 THE WITNESS: I'm not particularly 10:40  
13 comfortable talking about negotiations that I 10:40  
14 had with somebody prior to being put on 10:40  
15 retainer. 10:40

16 MR. ANDERTON: I mean no disrespect, 10:40  
17 Dr. Bliesner. Whether you're comfortable or 10:40  
18 not, it's something I'm allowed to inquire 10:40  
19 into. 10:40

20 MR. KERENSKY: Wait a minute. We're 10:40  
21 talking about -- I lost track of you guys. 10:41  
22 You're not talking back again about another 10:41  
23 case other than -- 10:41

24 MR. ANDERTON: No, no. We're talking 10:41  
25 about his retention. 10:41

Page 346

1 THE WITNESS: Prior to the retention. 10:41

2 BY MR. ANDERTON: 10:41

3 Q. You have now been disclosed -- 10:41

4 A. Uh-huh. 10:41

5 Q. -- as a testifying expert. 10:41

6 A. Uh-huh. 10:41

7 Q. So even if Mr. Kerensky's 10:41

8 characterization of the privilege is accurate, all 10:41

9 communications you've had with counsel for 10:41

10 Plaintiffs are open to my examination. 10:41

11 A. Okay. 10:41

12 Q. Okay. 10:41

13 A. Okay. 10:41

14 MR. KERENSKY: If it is about cases that 10:41

15 you've been retained, if there is a file you 10:41

16 have been retained on, he's right. Everything 10:41

17 you talked to the PSC about or anything like 10:41

18 that, that's fair game. 10:41

19 MR. ANDERTON: And that's what we're 10:41

20 discussing, Mike. You'll see when you see 10:41

21 Exhibit 146 that it is communication between 10:41

22 Dr. Bliesner and Pete Miller. 10:41

23 MR. KERENSKY: Okay. That's great. 10:41

24 THE WITNESS: Okay. 10:41

25 BY MR. ANDERTON: 10:41

Page 347

1 Q. So -- and why aren't you comfortable 10:41

2 discussing negotiations you had? 10:41

3 A. It's just bad business to talk to other 10:41

4 people about negotiations in business with your 10:42

5 clients. 10:42

6 Q. Well, this isn't business, 10:42

7 Dr. Bliesner. This is testimony in a legal 10:42

8 proceeding. You understand that; right? 10:42

9 A. I agree of course, but it's a 10:42

10 transaction. 10:42

11 Q. Dr. Bliesner, did you receive a notice 10:42

12 of today's proceeding? 10:42

13 A. Today's proceeding? 10:42

14 Q. Yes. 10:42

15 A. I received a notice for the one on the 10:42

16 25th, but one specifically for today? 10:42

17 Q. Yeah. 10:42

18 A. Not that I recall. 10:42

19 Q. Not that you recall. 10:42

20 Did you look at the one that you received 10:42

21 prior to coming on January 25th? 10:42

22 A. For today? 10:43

23 Q. No, before you came on January 25th. 10:43

24 A. Yes. 10:43

25 Q. And did you review that notice to 10:43

Page 348

1 identify documents and other materials that you 10:43

2 were supposed to bring with you on January 25th? 10:43

3 A. For the 25th one? 10:43

4 Q. Yes. 10:43

5 A. Yeah. 10:43

6 Q. One second, getting a drink. 10:43

7 A. May I do the same? 10:43

8 Q. Uh-huh, yes you may. Yes, you may. 10:43

9 We'll stay on the record. 10:43

10 Are you ready? 10:43

11 A. Yes, sir. 10:44

12 Q. So Dr. Bliesner, you did not receive any 10:44

13 notice of today's deposition? 10:44

14 A. Not that I recall, no. 10:44

15 Q. Before you came on January 25th -- 10:44

16 A. Uh-huh. 10:44

17 Q. -- to the first session of your 10:44

18 deposition, did you review the notice that you 10:44

19 received for the 25th and collect all of the 10:44

20 information, documents, and materials that were 10:44

21 identified in the notice to bring with you? 10:44

22 A. I did. 10:44

23 Q. And did you bring them with you on that 10:44

24 day? 10:44

25 A. I did. 10:44

Page 349

1 Q. Did you bring them with you again today? 10:44

2 A. I did. 10:44

3 Q. Same materials? 10:44

4 A. Yes. 10:44

5 Q. Is there anything that you brought with 10:44

6 you on the 25th that isn't here today? 10:44

7 A. No. 10:44

8 Q. You went through and organized them per 10:44

9 the -- 10:44

10 A. Uh-huh. 10:44

11 Q. -- suggestion of Mr. Kerensky? 10:44

12 A. Uh-huh. 10:44

13 Q. But you brought the same materials with 10:44

14 you? 10:44

15 A. Uh-huh. 10:44

16 Q. I'll represent to you, Dr. Bliesner, 10:44

17 that this notice is identical to the prior notice 10:44

18 except for the date and time. Mr. Kerensky will 10:44

19 speak up and tell me if I'm wrong. But item 10:45

20 number 2 -- 10:45

21 A. Uh-huh. 10:45

22 Q. -- requests that you bring all 10:45

23 correspondence and communication between the 10:45

24 witness -- that's you -- and anyone acting on the 10:45

25 witness's behalf. So anyone acting on your 10:45



Page 350

1 behalf. 10:45

2 A. Uh-huh. 10:45

3 Q. And attorneys representing the 10:45

4 Plaintiffs in this litigation. 10:45

5 A. Uh-huh. 10:45

6 Q. Do you understand that request? 10:45

7 A. Yes. 10:45

8 Q. Did you bring those materials with you? 10:45

9 Do you have all correspondence and communication 10:45

10 between yourself or your wife as a -- 10:45

11 A. Uh-huh. 10:45

12 Q. -- representative of Delphi? 10:45

13 A. Uh-huh. 10:45

14 Q. Or -- these invoices are under Delphi. 10:45

15 Do you have all correspondence between you, your 10:45

16 wife, or anyone at Delphi and any of the 10:45

17 Plaintiffs' lawyers with you today? 10:45

18 A. The original e-mails were copied off the 10:45

19 hard drive and Miss Johnson has them. So to 10:46

20 answer your question, that set of e-mails I do not 10:46

21 have with me. It's not on the hard drive. 10:46

22 Q. Not on the hard drive? 10:46

23 A. I have e-mails since that time that the 10:46

24 communications are on that hard drive. 10:46

25 Q. So the original e-mails were copied off 10:46

Page 351

1 of that same hard drive that you brought with you 10:46

2 today? 10:46

3 A. Yes, sir. 10:46

4 Q. Given -- printed off of that? 10:46

5 A. No, they were just copied as file. 10:46

6 Q. When did that happen? 10:46

7 A. The 24th, I believe. That was the day 10:46

8 before. 10:46

9 Q. So you brought them on that same hard 10:46

10 drive on January 24th to your meeting with 10:46

11 Plaintiffs' counsel? 10:46

12 A. Yes. 10:46

13 Q. And in that meeting, somebody copied 10:46

14 them off of that hard drive onto some media that 10:46

15 they brought with them? 10:46

16 A. Yes. 10:46

17 Q. Who was that? 10:46

18 A. It was Miss Johnson. 10:46

19 Q. What was the media she copied it onto, 10:46

20 do you know? 10:46

21 A. I don't recall. 10:46

22 Q. And then after that meeting -- 10:46

23 A. Uh-huh. 10:47

24 Q. -- did you bring that -- did you have 10:47

25 that hard drive with you on the 25th? 10:47

Page 352

1 A. Yes. 10:47

2 Q. Were the e-mails between you and 10:47

3 Plaintiffs' counsel still on the hard drive at 10:47

4 that time? 10:47

5 A. No. 10:47

6 Q. So you went home on the 24th and you 10:47

7 removed them? 10:47

8 A. No, no. She copied them off. 10:47

9 Q. Well, when you copy, you don't remove. 10:47

10 A. She removed them. She copied -- cut the 10:47

11 whole folder and dropped it over onto her 10:47

12 computer. 10:47

13 Q. So you had that hard drive with you on 10:47

14 the 25th but you didn't have the e-mails with you. 10:47

15 A. No, she he did. 10:47

16 Q. She did? 10:47

17 A. Yeah. 10:47

18 MR. ANDERTON: You see that we have a 10:47

19 problem here, Mr. Kerensky? Mike? 10:47

20 MR. KERENSKY: Sorry, I was on mute. I 10:47

21 don't think -- I'm pretty sure Meghan sent 10:47

22 those to me and I was supposed to bring them. 10:47

23 I am looking for an e-mail. Why don't you 10:47

24 move to another subject and I'll see if I can 10:47

25 solve it in a minute. 10:47

Page 353

1 BY MR. ANDERTON: 10:47

2 Q. Okay. So back to -- well, I'm going to 10:48

3 stay on this subject for a minute. She copied 10:48

4 them onto some media that she had. 10:48

5 A. Yeah, I believe it was her computer. 10:48

6 Q. Okay. 10:48

7 A. That she was going to share with 10:48

8 everybody. 10:48

9 Q. And then you removed them from your hard 10:48

10 drive? 10:48

11 A. No, no, no. She took them off. 10:48

12 Everything that I've done with respect to 10:48

13 electronic records and everything else, 10:48

14 communication, has been on that external hard 10:48

15 drive. 10:48

16 Q. This one you brought you? 10:48

17 A. This exact reason. It could be shared 10:48

18 with people. 10:48

19 Q. Okay. 10:48

20 A. So when we met on the 24th. 10:48

21 Q. Correct. 10:48

22 A. Right? They said so do you have any 10:48

23 e-mails? And I said yeah, I did what you told. 10:48

24 Here they are on the external hard drive and Miss 10:48

25 Johnson plugged it in I believe it was her 10:48

Page 354

1 computer, and she goes -- there's e-mail and 10:48  
2 communications back and forth here. You got to 10:48  
3 figure out -- words to this effect, you know -- a 10:48  
4 good way to distribute them so we're not passing 10:48  
5 the hard drive around. She goes so I'm going to 10:48  
6 cut them off and then I'll make sure they're 10:48  
7 available to people. 10:49

8 Q. Okay. She removed them from your hard 10:49  
9 drive. 10:49

10 A. Yes. 10:49

11 Q. And you don't have them here today. 10:49

12 A. No. You have e-mails since that time of 10:49  
13 communication. 10:49

14 Q. On this hard drive. 10:49

15 A. Yes. 10:49

16 Q. All e-mails, all correspondence between 10:49  
17 you and Plaintiffs' counsel? 10:49

18 A. There should be, yes. I'm pretty 10:49  
19 meticulous about when I get that, I make sure it 10:49  
20 goes onto the hard drive. 10:49

21 Q. So you're pretty meticulous that you 10:49  
22 preserve and maintain a complete set of records? 10:49

23 A. Yes. 10:49

24 Q. The documents that Mr. Miller and Ms 10:49  
25 Johnson delivered in person to you at your home, 10:49

Page 355

1 what were they? 10:49

2 A. I could show you. 10:49

3 Q. Please do. 10:50

4 A. We're talking just about that visit at 10:50

5 the home office. 10:50

6 Q. Well, were there other visits where they 10:50

7 delivered documents to you? 10:50

8 A. No. 10:50

9 Q. Just one? 10:50

10 A. Yes. 10:50

11 Q. Okay. Is that it? 10:50

12 A. The first set, they did not deliver. I 10:51

13 apologize for that. 10:51

14 Q. The first set? 10:51

15 A. That's stuff I had mailed to me 10:51

16 originally. 10:51

17 Q. Okay. 10:51

18 A. So on that particular day, it would have 10:51

19 been the second set I'm pretty sure. 10:51

20 Q. These two binders labeled second set? 10:51

21 A. Yeah. There may have been some 10:51

22 additional documents mailed to me prior to that 10:51

23 day, but they're all in here. 10:51

24 Q. All right. You can sit back down. 10:52

25 A. Sure. 10:52

Page 356

1 Q. That's all right. 10:52

2 A. Uh-huh. 10:52

3 Q. The other documents -- well, are there 10:52

4 other documents that you have received from 10:52

5 Plaintiffs' counsel as part of your engagement? 10:52

6 A. I've reviewed through this Crivella West 10:52

7 site. 10:52

8 Q. Okay. 10:52

9 A. Some of which I printed out to review, 10:52

10 others which I just left online because they were 10:52

11 too big. 10:52

12 Q. Okay. Are these the only documents that 10:52

13 you've actually received from Plaintiffs' counsel? 10:52

14 A. No. 10:52

15 Q. What else have you received from 10:53

16 Plaintiffs' counsel? 10:53

17 A. Yesterday evening, late, I believe I got 10:53

18 one or two reports from process development or 10:53

19 something like that. I didn't review them. 10:53

20 Q. Process validation? 10:53

21 A. I'm trying -- I don't recall because I 10:53

22 didn't look at them. 10:53

23 Q. Okay. 10:53

24 A. I got a document. I know that and I 10:53

25 just didn't look at it. 10:53

Page 357

1 Q. Who did you get that from? 10:53

2 A. Miss Johnson. 10:53

3 Q. Yesterday? 10:53

4 A. Evening, yes. 10:53

5 Q. Mail? Electronic? How did you get it? 10:53

6 A. It was electronic. 10:53

7 Q. By e-mail? 10:53

8 A. Yes. 10:53

9 Q. Is the e-mail -- 10:53

10 A. Should be on there, yes. 10:53

11 Q. Is that on the hard drive? 10:53

12 A. Yeah, should be there. 10:53

13 Q. The -- other than the documents you 10:53

14 received yesterday electronically from 10:53

15 Ms. Johnson, are there any other documents in 10:53

16 addition to the ones that you've handed me today 10:53

17 that you actually received from Plaintiffs' 10:53

18 counsel? 10:53

19 A. Not that I recall. I think this is 10:53

20 pretty much it, yeah. It's a lot of stuff so to 10:53

21 say definitively everything I've got is here. 10:53

22 Q. You just said you're a pretty meticulous 10:54

23 -- 10:54

24 A. Right. 10:54

25 Q. -- detailed guy. 10:54



Page 358

1 A. Right, right. 10:54

2 Q. That's the military background; right? 10:54

3 A. Or just anal retentiveness as a human 10:54

4 being. 10:54

5 Q. Okay. 10:54

6 A. The reason I'm not saying absolutely 10:54

7 yes, this is it, is that I'd have to go back and 10:54

8 look at the electronic records to make sure that 10:54

9 there was one attached that I didn't review or I 10:54

10 forgot about that would be there. 10:54

11 Q. But those would be included among e-mail 10:54

12 communications? 10:54

13 A. Yes. 10:54

14 Q. That Miss Johnson -- 10:54

15 A. Yes. 10:54

16 Q. -- took from you and hasn't produced to 10:54

17 us. 10:54

18 A. If she hasn't produced them, yes. 10:54

19 Q. Okay. Are there any other documents at 10:54

20 your home that you did not bring with you today 10:54

21 that you have received from Plaintiffs' counsel? 10:54

22 A. No. 10:54

23 MR. ANDERTON: Phil, we're going to mark 10:54

24 these. There are four of them. We're marking 10:54

25 documents Mike. Just show you know, there's a 10:55

Page 359

1 stack and three binders. We'll make 10:55  
2 arrangements to get them copied and back to 10:55  
3 Dr. Bliesner. 10:55

4 MR. KERENSKY: No problem. Who is going 10:55  
5 to do the copying? 10:55

6 MR. ANDERTON: We will figure that out 10:55  
7 before we leave today. 10:55

8 MR. KERENSKY: Very good. 10:55

9 THE WITNESS: Now, there are an 10:55  
10 additional documents that support the report, 10:55  
11 the attachments. 10:55

12 (Whereupon, Exhibits 147, 148, 149, 10:55  
13 150 were marked for identification) 10:55

14 BY MR. ANDERTON: 10:55

15 Q. Uh-huh. 10:55

16 A. Do you want those as well? 10:55

17 Q. Well, we'll get there. 10:55

18 A. Okay. 10:55

19 Q. I take it those are documents that you 10:55  
20 reviewed and printed from the Crivella West? 10:55

21 A. They could have been provided at some 10:55  
22 point through this document delivery that you've 10:56  
23 talked about. They e-mailed me some, they mailed 10:56  
24 me some, and then they delivered some personally. 10:56  
25 So they're all weaved together. 10:56

Page 360

1 Q. But I asked you, Dr. Bliesner, if there 10:56  
2 are any other documents that you've received from 10:56  
3 Plaintiffs' counsel. I didn't specify personal 10:56  
4 delivery. 10:56

5 A. Well. 10:56

6 Q. That's what you gave me when you gave me 10:56  
7 these things. 10:56

8 A. I'm sorry. I misunderstood you because 10:56  
9 I thought you said just for that visit at the home 10:56  
10 office. I'm sorry. 10:56

11 Q. Okay. 10:56

12 A. Uh-huh. 10:56

13 Q. So let's make sure. 10:56

14 A. Okay. 10:56

15 Q. It's imperative -- 10:56

16 A. Uh-huh. 10:56

17 Q. -- Dr. Bliesner that you listen very 10:56  
18 carefully to the questions that I ask. 10:56

19 A. I understand. 10:56

20 Q. Are there any other documents that you 10:56  
21 have received from Plaintiffs' counsel -- 10:56

22 A. Uh-huh, yes. Sorry. 10:56

23 Q. -- that you have with you today? 10:56

24 A. Yes. 10:56

25 Q. We're going to mark them. You've handed 10:56

Page 361

1 me two more binders. 10:57

2 A. Yes, sir. 10:57

3 Q. They have post-it notes on the key 10:57

4 documents A1 to A30 and A31 to A63? 10:57

5 A. Yes, sir. 10:57

6 Q. Who designated them key documents? 10:57

7 A. Me. 10:57

8 Q. Okay. I've got another stack of 10:57

9 documents with a post it on it that says last 10:58

10 supplemental set; right? 10:58

11 A. Yes. 10:58

12 Q. What is that? 10:58

13 A. Those were -- if I recall those were 10:58

14 printouts of e-mails that I received from one of 10:58

15 the attorneys prior to the 25th. 10:58

16 Q. Okay. 10:58

17 A. I believe that we reviewed those. You 10:58

18 have them as well and we've reviewed them. 10:58

19 Q. Okay. 10:58

20 A. Uh-huh. 10:58

21 Q. So these appear to be all or largely the 10:58

22 records relating to the FDA 484 sampling program. 10:58

23 You can stay right there. 10:58

24 A. Okay. It looks like there's an 10:58

25 additional set there too. So to answer your 10:59

Page 362

1 question, it appears to be that and some more. 10:59

2 Q. Okay. But you received those prior 10:59

3 to -- somewhat close in proximity to the last 10:59

4 deposition session. 10:59

5 A. Yeah. 10:59

6 Q. As I look at these binders that have 10:59

7 been marked as 148, 149 and 150. 10:59

8 A. Uh-huh. 10:59

9 Q. I see highlighting on various 10:59

10 documents. Who did the highlighting? 10:59

11 A. Let's see. 10:59

12 Q. In particular, I'm looking at -- 10:59

13 A. Oh. 10:59

14 Q. -- the third set of supplemental 10:59

15 documents. 10:59

16 Who did the highlighting? 10:59

17 A. Me. 10:59

18 Q. Is it true that any highlighting that I 10:59

19 will encounter on these documents was done by you? 10:59

20 A. I believe so, yes. 10:59

21 Q. Okay. 10:59

22 A. I -- nobody pointed out anything 10:59

23 specifically for me to... 11:00

24 Q. You can have that stack back and you can 11:00

25 put it away. 11:00

Page 363

1 A. Okay. 11:00

2 Q. We're not going to copy that or mark 11:00

3 it. 11:00

4 A. Okay. 11:00

5 Q. Now, you've handed me another binder of 11:00

6 deposition transcripts. 11:00

7 A. Yeah. Those were printed out off of 11:00

8 Crivella. 11:00

9 Q. You can have that back. We're not going 11:00

10 to mark that. 11:00

11 A. Okay. 11:00

12 Q. Are there any other documents, 11:00

13 Dr. Bliesner, that you have received from 11:01

14 Plaintiffs' counsel that you brought with you 11:01

15 today? 11:01

16 A. Other than the electronic ones that I 11:01

17 could not account for, not to my knowledge, no. 11:01

18 Q. Okay. 11:01

19 A. Uh-huh. 11:01

20 Q. What else is in the boxes that you 11:01

21 brought with you today? 11:01

22 A. Today? 11:01

23 Q. Just describe it. 11:01

24 A. Describe it? Textbook, the transcript 11:01

25 of the last deposition that I need to review. 11:01

Page 364

1 Q. What else? 11:01

2 A. I think I've got some notes from -- the 11:01

3 stuff like this. 11:01

4 Q. Some notes like that or -- 11:01

5 A. Would you like me to look? 11:01

6 Q. Sure. 11:01

7 A. Because I'm not sure whether you have 11:01

8 copies of this or not. 11:01

9 Q. Well, let me see the notes. 11:01

10 A. Sure. That's it. Did you want to -- 11:01

11 Q. No. 11:01

12 A. Okay. 11:01

13 MR. ANDERTON: While -- Phil, while we're 11:02

14 at it, we may as well mark the notice. Mike, 11:02

15 I'm marking the notice as 151. 11:02

16 (Whereupon, Exhibit 151 was marked 11:02

17 for identification) 11:02

18 BY MR. ANDERTON: 11:02

19 Q. Do you have any other notes with you? 11:02

20 A. No. 11:02

21 Q. Okay. You described -- you said you had 11:02

22 your textbook, you said you had your deposition 11:02

23 transcript, you said you had these additional 11:03

24 notes that we're about to mark. 11:03

25 A. Uh-huh. 11:03

Page 365

1 Q. Do you have anything else with you in 11:03  
2 the boxes that you brought today? 11:03

3 A. No. 11:03

4 MR. ANDERTON: Phil, would you mark these 11:03  
5 as 152 and 3? Mike, these are additional sets 11:03  
6 of notes. 11:03

7 (Whereupon, Exhibits 152 and 153 11:03  
8 were marked for identification) 11:03

9 THE VIDEOGRAPHER: The time is 11:03  
10 a.m. We're going off the record. 11:03

11 (Short break) 11:14

12 THE VIDEOGRAPHER: The time is 11:14  
13 11:14 a.m. We're back on the record. This is 11:15  
14 the beginning of tape four. 11:15

15 BY MR. ANDERTON: 11:15

16 Q. Dr. Bliesner, I'm going to hand you a 11:15  
17 document that has been marked as Exhibit 152. 11:15

18 A. Yes. 11:15

19 Q. Tell me what that is. 11:15

20 A. That's my handwritten notes I believe it 11:15  
21 was for the day when I met before the first 11:15  
22 deposition with the attorneys. 11:15

23 Q. Your handwritten notes. Okay. Well, we 11:15  
24 had some testimony earlier about a document that's 11:15  
25 marked as 109. 11:15



Page 366

1 A. Yes. 11:15

2 Q. Do you remember that? 11:15

3 A. Yes, uh-huh. 11:15

4 Q. You described those as your handwritten 11:16

5 notes. Did you take two sets of notes that day? 11:16

6 A. I cleaned them up so I could read them. 11:16

7 Q. When did you do that? 11:16

8 A. I don't recall, but I think it was at 11:16

9 the same time, like at the end of the day. 11:16

10 Q. Okay. So the document that is 109, is 11:16

11 that the uncleaned up version or is it the cleaned 11:16

12 up version? 11:16

13 A. This one right here? 11:16

14 Q. 109. 11:16

15 A. Yeah, I think that's just the summary at 11:16

16 the end of the -- this and the other notes that 11:16

17 were there. 11:16

18 Q. So the document that's 152 -- 11:16

19 A. Uh-huh. 11:16

20 Q. -- let's get them both in front you. 11:16

21 A. Okay. 11:16

22 Q. I'm also handling you a document that is 11:16

23 marked 153. 11:16

24 A. Uh-huh. 11:16

25 Q. What is that? 11:16

Page 367

1 A. 153 looks like notes from a conversation 11:16

2 I had. 11:16

3 Q. With? 11:16

4 A. It looks like -- specifically, I'm not 11:16

5 sure who called me. It was either Pete or Meghan 11:17

6 to tell me a time. 11:17

7 Q. To tell you a time? 11:17

8 A. Yeah, hold on. That's not right. 10 -- 11:17

9 oh, I'd have to look at the calendar. We did our 11:17

10 deposition on what day of the week? 11:17

11 Q. Tuesday. 11:17

12 A. Tuesday, yes. So this was notes with 11:17

13 respect to them, to meet me on the Monday before. 11:17

14 Q. And by "this," you mean Exhibit 153? 11:17

15 A. Yes. 11:17

16 Q. But this is notes of a phone 11:17

17 conversation that obviously occurred before Monday 11:17

18 24th; right? 11:17

19 A. I suppose that's -- that's the case, 11:17

20 yes. 11:17

21 Q. You suppose? 11:17

22 A. It doesn't have a date on it. I don't 11:17

23 have a time so I can't tell you definitively what 11:17

24 day. 11:17

25 Q. Are these notes that you took during 11:17

Page 368

1 that meeting with the lawyers? 11:18

2 A. No. 11:18

3 Q. And it references a meeting time and 11:18

4 place, 10 a.m., 10, Monday, 100 North Tampa. 11:18

5 A. Right. So chances are it's the 11:18

6 telephone record. 11:18

7 Q. You mean record of notes during a 11:18

8 telephone conversation? 11:18

9 A. When they called up and said, you know, 11:18

10 we want to get together on the 24th, the day 11:18

11 before. 11:18

12 Q. Well, this is a lot more than we want to 11:18

13 get together on 24th, isn't it, Dr. Bliesner? 11:18

14 A. This sheet is. The rest of them, I'm 11:18

15 not sure where -- if that was part of the day 11:18

16 that -- on the day before the deposition or not. 11:18

17 I -- I really -- because I don't have a date and a 11:18

18 time on it here. Just -- I think that this -- 11:18

19 this page 2 here of 153. 11:18

20 Q. Yeah. 11:18

21 A. If I had to offer a suggestion, I think 11:18

22 that those pages probably went with this, the 11:18

23 preparation day. 11:19

24 Q. So you think these are notes that you 11:19

25 made when you met with them on the 24th? 11:19

Page 369

1 A. Yes. 11:19

2 Q. And you think 152 are notes that you 11:19

3 made when you met with them on the 24th? 11:19

4 A. 152. 11:19

5 Q. Yes. 11:19

6 A. Yes. 11:19

7 Q. And you think that 109 is a clean up of 11:19

8 notes you made when you met with them on the 24th 11:19

9 and made them later that day? 11:19

10 A. Yes. 11:19

11 Q. Three sets of notes, Dr. Bliesner. 11:19

12 Really? 11:19

13 A. Three set pages. 11:19

14 Q. In the same day? 11:19

15 A. This is the telephone conversation. 11:19

16 Q. The first page of Exhibit 153. 11:19

17 A. 153. 11:19

18 Q. Your testimony is that what remains in 11:19

19 153 -- and just so we're clear -- 11:19

20 A. Uh-huh. 11:19

21 Q. -- you handed me the document that we've 11:19

22 marked as Exhibit 153 -- 11:19

23 A. Yes. 11:19

24 Q. -- as a single group of notes; right? 11:19

25 A. I -- if that's how it's -- you 11:19

Page 370

1 interpreted it, it's -- that's not an accurate 11:19  
2 statement. It's just notes that I had. I just 11:19  
3 gave you my notes. Now what days they were on 11:19  
4 specifically, that's what we're trying to 11:19  
5 determine right now. 11:20

6 Q. And you're unable to do that. 11:20

7 A. Considering I didn't put a date at the 11:20  
8 top, yeah. 11:20

9 Q. So let's look at Exhibit 152 -- 11:20

10 A. Okay. 11:20

11 Q. -- first; okay? 11:20

12 A. Okay. 11:20

13 Q. The top says "90 percent." What does 11:20  
14 that mean? 11:21

15 A. I'm not really sure. I'm thinking that 11:21  
16 it was a reference to listening to the question 11:21  
17 like you've said and thinking about what's really 11:21  
18 been said as opposed to jumping in and trying to 11:21  
19 answer without really understanding the question. 11:21  
20 So 90 percent of the effort would be sitting down, 11:21  
21 listening to the question, and making sure that 11:21  
22 you're answering in a way that's accurate. 11:21

23 Q. Under there it says, "defending turf." 11:21  
24 What does that mean? 11:21

25 A. I believe that was guidance, since I 11:21

Page 371

1 have never done this before, that, you know, don't 11:21  
2 allow yourself to be headed down a direction that 11:22  
3 isn't the truth. So, again, I as said before, 11:22  
4 this is such -- so different than the 11:22  
5 collaborative stuff that -- that I've done in the 11:22  
6 past that obviously I need a little instruction on 11:22  
7 how to do this. 11:22

8 Q. Well, it would be great if this was 11:22  
9 collaborative. You're obviously getting guidance 11:22  
10 on how to make it combative; right? 11:22

11 MR. KERENSKY: Objection, form. 11:22

12 BY MR. ANDERTON: 11:22

13 Q. You may answer. 11:22

14 A. Could you say the question again? 11:22

15 MR. ANDERTON: Read it back, please, 11:22

16 Phil. 11:22

17 (Whereupon, the testimony was read 11:22  
18 back by the court reporter, as recorded above) 11:22

19 THE WITNESS: I wouldn't agree with that. 11:22

20 BY MR. ANDERTON: 11:22

21 Q. You don't think that somebody telling 11:22  
22 you to defend your turf isn't a guidance on how to 11:22  
23 make a process combative? 11:22

24 A. Absolutely not. 11:22

25 Q. Okay. In the next line there's a 11:22

Page 372

1 bracketed phrase that says "easier said than 11:23

2 done." Is that what it says? 11:23

3 A. Where are we at again? 11:23

4 Q. The first page of Exhibit 152, top of 11:23

5 the page. 11:23

6 A. Easier said than done, yes. 11:23

7 Q. What does that mean? 11:23

8 A. To listen very carefully, things are in 11:23

9 the box. To listen to the questions. Don't guess 11:23

10 or propose a hypothesis and then the third and 11:23

11 fourth thing. So that's what it is. It's very 11:23

12 simple guidance, but it's, as I'm discovering, not 11:23

13 real easy. 11:23

14 Q. What do you mean by that? 11:23

15 A. It's just hard work. 11:23

16 Q. I think you're making it harder than it 11:23

17 actually is, Dr. Bliesner, but that's just my 11:23

18 humble opinion. 11:23

19 The next page of Exhibit 152 says "write these 11:24

20 down." 11:24

21 A. Uh-huh. 11:24

22 Q. Why did you make that note? 11:24

23 A. I believe the conversation went to this 11:24

24 effect, you know? How do you -- in your report, 11:24

25 what are the things that come to mind off the top 11:24

Page 373

1 of your head that line up in some entry position 11:24

2 outside of the report. So I went (witness makes 11:24

3 noise) right off the top of my head. 11:24

4 Q. So in essence what are the documents 11:24

5 that support the conclusions in your report? 11:24

6 A. Yeah. 11:24

7 Q. And so they are the AERs, adverse event 11:24

8 reports; right? 11:24

9 A. Uh-huh. 11:24

10 Q. The FDA documents; right? 11:24

11 A. Yes. 11:24

12 Q. Pharmacy complaints; right? 11:24

13 A. Yes. 11:24

14 Q. Deposition testimony? 11:24

15 A. Yes. 11:24

16 Q. Company responses to FDA inspections? 11:24

17 A. Yes. 11:25

18 Q. Company internal 11:25

19 document/investigations? 11:25

20 A. Yes. 11:25

21 Q. Recall documents? 11:25

22 A. Yes. 11:25

23 Q. Mylan documents? 11:25

24 A. Yes. 11:25

25 Q. Deviation from standard industry 11:25



Page 374

1 practices? 11:25

2 A. Yes. 11:25

3 Q. Who created that list? 11:25

4 A. Me. 11:25

5 Q. In the moment in that meeting with 11:25

6 Plaintiffs' lawyers? 11:25

7 A. Yeah. 11:25

8 Q. Did they make suggestions on -- as to 11:25

9 what ought to be on the list? 11:25

10 A. Not really. 11:25

11 Q. Batch records isn't on that list, is it? 11:25

12 A. Specifically, no. 11:25

13 Q. "The big yes but tell me everything." 11:25

14 That notation can be seen on this page 2 of the 11:25

15 Exhibit 152; is that right? 11:25

16 A. Yes. 11:25

17 Q. What does that mean? 11:25

18 A. To tell you the truth, I have no idea. 11:25

19 Q. Your notes. 11:25

20 A. I know it's my notes, but I have no idea 11:25

21 what that means. I really don't. 11:25

22 Q. What does the bottom note say "and 11:25

23 that's dangerous"? 11:25

24 A. Yeah. 11:26

25 Q. What does that mean? 11:26

Page 375

1 A. To tell you the truth, I don't remember 11:26  
2 in this conversation. 11:26

3 Q. Let's go look at Exhibit 153. 11:26

4 A. Okay. 11:26

5 Q. And let's look at the second page of 11:26  
6 Exhibit 153. 11:26

7 A. Okay. 11:26

8 Q. What is that list of six things? 11:26

9 A. Looks like references to documents that 11:26  
10 are included in the report. 11:26

11 Q. Who made the list? 11:26

12 A. Well, I wrote the list. 11:26

13 Q. Why? What's the intention of making the 11:26  
14 list? 11:26

15 A. I'm trying to -- trying to remember. 11:26

16 Q. Please do. 11:26

17 A. Uh-huh. As we said before I'm pretty 11:26  
18 sure these are pages that went with the -- this 11:27

19 set, the notes. I'm not sure when these notes 11:27

20 were made, if it was with this or if it was this 11:27

21 conversation because I don't have a time and a 11:27

22 date on it, but it was some suggestions that if I 11:27

23 wanted to -- in preparation for the deposition 11:28

24 that the -- I go back and look at them since they 11:28

25 were in my report -- by one of the attorneys. 11:28